NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

CATHIE A. SHATTUCK, OF COLORADO, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION;

REYNALDO PHILIP MADURO, OF MARYLAND, TO BE AN ASSISTANT DIRECTOR OF ACTION;

AND

WILLIAM J. BENNETT, OF NORTH CAROLINA, TO BE CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

FEBRUARY 2, 1982

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NOMINATIONS

TUESDAY, FEBRUARY 2, 1982

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 4232, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Hatch, Stafford, East, and Pell.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. We will call this committee to order.

Senator Williams has asked me to express his regret at not being able to attend these hearings due to his recent hospitalization. He asked me to convey on his behalf his welcome to the nominees and any witnesses that we may have before us this morning. The Senator has prepared a list of written questions, and we will try to ask some of these questions to at least one or two of you witnesses.

We will begin with the nomination of Cathie Shattuck to the Equal Employment Opportunity Commission. The President, Ms. Shattuck, has nominated you to serve as Commissioner to the Equal Employment Opportunity Commission, a body charged with a difficult and important responsibility. Congress, in enacting the Civil Rights Act of 1964, made the EEOC the cornerstone of our Government's efforts to eliminate employment discrimination.

Today, with a host of other equal opportunity efforts being carried out by other Government entities, it is important that Congress reaffirm its intent as expressed in 1964 and as reaffirmed in the 1972 amendment, that the EEOC, using well-established title VII standards, be the agency to remedy illegal employment discrimination. I have long been an advocate for strong civil rights enforcement and, as such, see the need to strengthen the agency so it will carry out its mandate efficiently and effectively.

It is for this reason that last July, I requested the GAO to conduct a financial management audit of the EEOC. On October 30 of last year the GAO provided me with an interim report which, to say the least, I found alarming.

For example, the report reveals that the agency has $27.2 million in unliquidated obligations, $1 million in outstanding travel advances, and that the EEOC never put into effect a financial system which a 1976 GAO audit recommended. In short, the GAO reports that in EEOC we have the worst condition in which any agency or business can find itself: Their books cannot be audited.

Now Acting Chairman Clay Smith has assured me that he has taken steps to correct the problems the GAO has identified, and I hope you and the other Commissioners can make this a top priority. Frankly, I have to admit I am amazed that anyone would allow such a key agency to deteriorate to such a state.

Please be assured that this committee will work with you in doing whatever needs to be done to strengthen this major civil rights agency. I would also want you to know that this committee will not tolerate further mismanagement, and we intend to oversee this area very closely.

Other recent GAO reports of that agency have found instances of mismanagement and poor use of resources. I would hope that you will study these reports carefully and take corrective action as needed. One specific concern that I have is GAO's finding that the EEOC's enforcement activities were being undermined because of a 50-percent settlement rate of charges, which included cases which had no merit and for which EEOC had no jurisdiction.

Several months ago I was informed that the EEOC gave merit raises to their supervisors based on really two questionable standards: One, a call for a 45-percent settlement rate with benefits; and, two, an average of $1,200 of benefits per charge closed. To compound the problem, I recently was further informed that the EEOC has upped its ante from $1,200 to $3,600.

Therefore, I would hope that the Commission would look into that problem and provide this committee with a response within the next 30 days, since I find such practice to be blatantly unfair to all parties, and I think it is one which I personally find unacceptable.

I am convinced that after 17 years of operation, the EEOC needs to be revitalized with a renewed sense of purpose so it will become effective in eliminating discrimination in the American workplace. To that end, I look forward to working with you and the other Commissioners at the EEOC.

Ms. Shattuck, we would be happy to take your statement at this time.

STATEMENT OF CATHIE A. SHATTUCK, NOMINATED TO BE COMMISSIONER, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ms. SHATTUCK: Thank you, Mr. Chairman.

I have prepared a brief statement but I would like to begin by expressing my gratitude for your expeditious consideration of my nomination to the Equal Employment Opportunity Commission.

My conversations with members of this committee have indicated to me the keen and personal interest they have in both equal employment opportunity and in the enforcement role that EEOC plays as it seeks to eradicate employment discrimination. I assure you that I shall make every effort to be responsive to the concerns of the committee in this vital enforcement area.

The members of EEOC are charged, in part, with initiating, developing, and refining the policies which guide the Commission in meeting its statutory obligations in enforcing title VII of the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act, and laws affecting handicapped employees in the Feder-

al sector. The Commissioners are collectively responsible for the success or failure of the agency in meeting and addressing these obligations.

The challenge is uniquely awesome, considering the effect of the Commission's policies on both the employment opportunities of a huge segment of our citizens and on the need of American business to have a productive work force. Craftsmanship and professionalism must be a hallmark of the Commission as it carries out its legislative mandate. The impact of the Commission's enforcement of title VII and related laws on industrial environment has been profound by nearly anyone's standards. It will be a cornerstone of my tenure with EEOC, if confirmed, to address the standards of craftsmanship with which the Commission fulfills its purposes.

A major part of my professional career has been in the equal employment opportunity field. The breadth of this experience has provided me a perspective which is balanced and bound only by a genuine personal commitment to the purposes for which title VII and related laws were enacted.

As an attorney, I have always approached legal issues by looking first to the enacted legislation and to the accompanying judicial interpretations. It is the obligation of the agency to enforce the law, and any attempt to define what the law is must begin in this fashion.

As an attorney for a State agency charged with enforcing legislation similar to title VII, and as an attorney for more than 4 years with the EEOC litigation staff, I have had the unique opportunity to view Commission policy as it has developed and as it has been enforced. I have had the unique opportunity to also practice privately in the area of labor relations and particularity in the area of title VII, representing plaintiffs and defendants alike, and I have seen the personal impact that title VII has had on all affected parties.

This impact has manifested itself by the opening of equal employment opportunity avenues for those previously excluded from the workplace. The EEOC reports on compliance and enforcement activity show this in graphic detail. Vigorous enforcement must continue in our efforts to rid the workplace of barriers to equality of opportunity.

The impact such enforcement has had on the management of human resources is also profound. Business is improving its technical expertise to recognize and identify employment systems which discriminate against those protected by statute. This expertise developed in ways which can hardly be compared with the earlier days in which there was no specialization and little understanding of how to conduct an equal opportunity system within a corporation. It is measured by the increased number and specialization of human resource staffs in many corporations and in the increased presence of minorities and women at all levels of the work force.

My broad EEO experience will assist me in dealing with the complexities involved in the vital sociological concerns of minorities, women, handicapped, and the aged, with the development of policy the Commission must promulgate in order to respond to evolving aspects of employment discrimination. The burdens that unnecessary and ineffective regulation may have on each of us as ultimate

recipients of the marketplace's successes and failures will be of primary concern to me.

There have been those who have indicated to me that they doubt whether the role of the Commission can ever generate the simultaneous confidence of all sides to enforcement activities. I challenge that skepticism, and feel the success of the Commission's discharge of its obligations rests on the ability to develop such confidence. A relationship of confidence must be established to enhance the resolution of complaints and compliance with the law.

This emphasis on a relationship of confidence should not be construed as any compromise of the enforcement obligations of the Commission. It simply means that EEOC has a role to play in the development of meaningful and effective policies and procedures which will encourage all affected parties to resolve disputes.

Mr. Chairman, I would be happy to answer any questions which you and other members may have at this time. I look forward to your support and would be pleased to serve a full term as a member of the Equal Employment Opportunity Commission.

The CHAIRMAN. Thank you, Ms. Shattuck.

What criteria will you use to measure the success of the EEOC over the next year?

Ms. SHATTUCK. There are several areas that I think would be useful to look at in that regard. One is the ability of the agency to handle the charges and get them processed in a timely manner. We are not serving the public, either industry and business or the complaining parties, if we do not get the charges that are filed with the Commission resolved early on. It costs individuals lost time in terms of work and jobs, and it also costs corporations extreme amounts of money if they have to wait a long period of time to get their cases to a resolution standpoint. The Commission has been working on the backlog over the years but it still exists, and I think that is one area that we need to tighten up a bit.

Another area that I am most concerned about is interagency coordination between the Commission and other governmental agencies because the Commission has the responsibility of coordinating EEO policy throughout the Federal Government. This is an area that I plan to spend a considerable amount of time with so that we can have some consistency in Government regulation. I will do my best. Those are a couple of the areas.

The CHAIRMAN. Assistant Attorney General Bradford Reynolds has indicated that in title VII actions which the Department of Justice maintains against public sector employees, remedial relief will be sought only for what he called "identifiable victims" of discrimination. To what extent do you feel that the Department's policies for enforcing title VII in the public sector should influence the EEOC's policies for correcting title VII in the private sector?

Ms. SHATTUCK. First of all, I would like to say that I have not discussed this with Mr. Reynolds; I have not even met him yet. I have just seen what I have read in the paper.

I would anticipate that through our interagency coordination we will be discussing these issues with the Justice Department, and I would hope that we could come to some kind of an agreement for cohesive enforcement of title VII and other related laws. The way it is set up right now, the Commission is in a rather strange posi-

tion because it investigates the complaints that go to the Justice Department for litigation. The GAO, I believe, said that about 25 percent are kept by Justice for another review—and we don't know how many suits have been filed—but that enforcement in the title VII area by Justice has been fairly minimal.

The Commission, though, enforces the Equal Pay Act and the Age Discrimination in Employment Act itself as that applies to State and local governments, so it is a very strange mixture. I think that we are going to work on getting that coordinated as best we can.

The CHAIRMAN. The Commission has been repeatedly criticized by members of this committee and by others for issuing guidelines which are contrary to, or undercut, the substantive holdings of various court decisions, as you know. Of particular concern are portions of its guidelines on sexual harassment, pregnancy discrimination, accommodation of religious beliefs, and the Age Discrimination in Employment Act.

At several points these guidelines do not reflect existing law, rather, they appear to state what the Commission feels what ought to be the state of the law. As a Commissioner, what steps will you take to insure that the EEOC's existing regulations and its regulatory proposals are legal, practical, and constructive?

Ms. SHATTUCK. Senator, I believe that my philosophy about guidelines may be helpful in this area. They should in fact be guidelines to businesses and employers as well as to individuals who are protected by title VII, in terms of defining what is legal under the act. Times change, and it is necessary sometimes to revise guidelines in view of court opinions. I think that a thorough review on a periodic basis is mandatory in this area.

Some of the guidelines were promulgated early on when there was no case law regarding title VII and they were basically guesses in terms of where the law was going to go. However, we have a substantial background now of court decisions and I would like to have those considered.

I would also like to have some really good input from those that the agency serves. I think that it is going to take more than publishing a notice in the Federal Register to get that kind of information, whether it be public hearings, whether we need to do questionnaires. There are all kinds of things that we can do to get the input to find out whether those guidelines are practical and workable, and I think that we have an obligation to do that in addition to fulfilling the statutory notice requirements in the Federal Register.

The CHAIRMAN. It has been brought to my attention that both the EEOC and the OFCCP have sanctioned the practice of permitting unions to bar from their apprenticeship programs candidates who are 25 years or older. It is hard for me to believe that both the EEOC and the OFCCP would sanction such a practice, since they are responsible for assuring nondiscrimination on the basis of age.

Such a policy may also have the effect of reducing opportunities for women to enter the work force at a later stage in life. Furthermore, this could be one of the reasons why we do not have more women in the so-called nontraditional jobs and why women on the

average may make less than men. It may have some bearing on that. I am not sure.

What is your position on this ruling? May I ask you to review this issue and report back to the committee your further consideration and considered positions within the next 30 days?

Ms. SHATTUCK. I would be happy to review that and report back to the committee. In view of what the industrial psychologists are telling us, that an employee can expect to have four different careers during a working lifetime which require retraining, I think that that provision of not allowing training after age 25 is something that needs to be reexamined in light of the information that we have.

The CHAIRMAN. Senator Armstrong sends his regrets for not being here today because of prior commitments in his schedule. He wanted to be here to introduce you to the committee. I hope you will forgive him for that.

Ms. SHATTUCK. That is all right. Thank you.

The CHAIRMAN. Thank you. We are happy to have you with us, Ms. Shattuck. We will look forward to your confirmation.

I am going to submit some additional written questions to you which I hope you will answer immediately and get them right back to the committee.

Ms. SHATTUCK. I will be glad to.

The CHAIRMAN. Thank you. We appreciate having you here with us today and look forward to working with you.

[The biographical sketch of Ms. Shattuck, along with questions and responses, follow:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Shattuck (LAST) Cathie (FIRST) Ann (OTHER)

Position to which nominated: Commissioner, E.E.O.C. Date of nomination: 12/7/81

Date of birth: 18 (DAY) 7 (MONTH) 1945 (YEAR) Place of birth: Salt Lake City, Utah

Marital status: Single Full name of spouse: N/A

Name and ages of children: N/A

Education:

Institution	Dates attended	Degrees received	Dates of degrees
University of Nebraska	1963-1967	BA	1967
University of Nebraska	1967-1970	JD	1970

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Delta Sigma Rho-Tau Kappa Alpha - speech honorary

Pi Sigma Alpha - political science honorary

BPW Nebraska Young Career Woman award

Daily Nebraskan Outstanding Nebraskan award

Ivy Day Court

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Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
Nebraska Bar Assn.		1970-present
Colorado Bar Assn	Labor law section	1971-present
TWCA of Metro Denver	Director	1979-81
KGNU public radio	Director	1979
American Bar Assn.	Litigation section	1970-present
The Denver Club		1980-present
The Denver Exchange	Director	1980-81

(See attached)

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

1963-70,	University of Nebraska Donald L. Olsen Lincoln, Nebraska	Summer debate coach and judge
1968-70,	University of Nebraska College of Law Arthur A. Vennix Lincoln, Nebraska	Student and law librarian
6/1968 - 9/1968	Liberty Mutual Ins. James Peck 216 Pine St. San Francisco, CA.	Law Clerk
6/1969- 6/1970	State of Nebraska Harry S. Salter State Highway Bldg Lincoln, Nebraska	Law Clerk
1967-70	Shattuck Farms, Inc. Hastings, Nebraska	Director - Vice President
9/1970 - 11/1970	Ralph Clark, Regent Campaign Denver, Colorado	Campaign Staff
8/1970 - 12/1972	Colorado Civil Rights Commission (James Reynolds) 1525 Sherman Denver, Colorado	Asst. Project Director/Attorney

(Continued on attached sheet)

Memberships (continued):

Organization	Office Held (if any)	Dates
MSI, Inc.	Director	1980-81
Federal Bar Assn.,	Co-chair of labor law section for National Convention	1981
Colorado Womens Bar Assn.	Legal services etc; liason to Legal Aid Society board	1978-79
Plush Fund		1979-80
Denver Art Museum		1971-present

* * *

Employment (continued):

1/1973 - 4/1977	EEOC, U.S. Government Irving Miller 1531 Stout St. Denver, Colorado	Trial Attorney
4/1977 - 10/1978	Roybal & Shattuck Partner 711 American Natl. Bank Bldg. Denver, Colorado	Attorney
10/1978 - Present	Self-employed 1624 Market St., #212 Denver, CO. 80202	Attorney
5/1979 - 12/1/81	Suzzane H. Lynch Colorado Dept. of Administration 1525 Sherman St. Denver, Colorado	Hearing Officer

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Feder State, or local governments other than those listed above.

N/A

Published writings: List the titles, publishers and dates of books, articles, reports or other published materi you have written.

N/A

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered all political parties or election committees during the last five years.

1980-Colorado Reagan Campaign - assistant to Freda Poundstone.

$25 Contribution to Rep Ken Kramer's re-election campaign

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

None, I have devested myself of all stocks by sale or gift with the exception of those items listed in Part II and those should constitute no potential conflicts of interest.

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

None

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I will consult the ethics in government expert at EEOC and the Justice Dept. and will not participate by vote or attempts to influence in any matters in which past clients or opponents may have a direct interest.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

February 3, 1982

The Honorable Orrin G. Hatch, Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C.

Dear Senator Hatch:

Attached are my responses to the written questions you submitted to me at the February 2, 1982, confirmation hearing held on my nomination for the Equal Employment Opportunity Commission.

Sincerely yours,

Cathie A. Shattuck

Cathie A. Shattuck
Commissioner

Attachments

1. If remedial relief under Title VII were to be available only to identifiable victims, would this mean that each person would have to maintain a separate lawsuit or would class actions under Rule 23 of the Federal Rules of Civil Procedure still be possible? If so, under what conditions?

If remedial relief under Title VII were to be available only to identifiable victims, class actions would still be available pursuant to Rule 23 of the Federal Rules of Civil Procedure. Persons who file class actions must demonstrate that the action meets all the requirements of subsection (a) of Rule 23 and one of the requirements of subsection (b). Subsection (a) provides that, in order for a federal court to allow a class action to go forward, the class must be so numerous that joinder of all members is "impracticable"; there are questions of law and fact common to the class; the claim or defenses of the class representative must be typical of the claims of the class and the representative parties must fairly and adequately protect the interests of the class.

After the elements of Rule 23 (a) are satisfied, the question then becomes what type of class action is appropriate under Rule 23 (b). The advisory committee on the Federal Rules of Civil Procedure suggested that Rule 23 (b)(2) would most often be appropriate because the allegations of discrimination would normally be that "the party opposing the class has acted or refused to act on grounds generally applicable to the class" and "final injunctive relief... to the class as a whole" is sought. The standard was fine for cases where injunctive relief was a primary form of relief sought and when the evidence with regard to the class as a whole would predominate. But second-generation Title VII class actions do not fit this pattern, and the courts have more often applied Rule 23 (b)(3), with its more stringent standards. Under Rule 23 (b)(3), the court must find that questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. In such cases, courts generally make an initial determination that a case of liability has been made out, and after such a determination, it will generally order the action to proceed to a second stage, where determinations as to liability with regard to individuals and the damages associated therewith become the focus of the case. Thus, the trial on the common questions becomes very brief, and the trial with regard to liability associated with individual persons and damages where liability can be established becomes the overwhelming focus of the case. Such use of the class action mechanism would still be available to gain relief for identifiable victims should there be limits placed on remedial relief pursuant to Title VII.

2. Assuming that in certain circumstances class actions would still be available under Title VII, would identifiable victims be required to establish their individual losses through a series of "mini trials," or would a formula be used for calculating losses of similarly situated individuals?

The way in which equitable relief is fashioned by the court pursuant to Title VII is to a large degree discretionary. It is entirely possible that, in cases of persons similarly situated, the court would make use of a "formula" in order to determine the losses sustained by the individual parties. For example, such a formula in a hiring case might include (1) date of hire, (2) position for which the complainant applied, (3) the pay range for that position on the date of employment, (4) the salary history for that particular position during the time period relevant in the law suit, (5) the progression normal to employees within the plant for increases in salary and (6) the amount of income earned by the individual from the date of discrimination until the date of court decision. Such a formula then might be applied in the case where the court found that, but for the discrimination on the part of the employer, a certain number of protected persons could have been expected to be hired into positions and said positions would have generated a sum certain in terms of income. The amount of damages awarded protected persons may then be prorated among those who are identifiable by the facts of their application for employment or other factors which the court may take into consideration. Any monies left over after the individual awards have been made might then be designated by the courts for training or recruitment programs.

It is also possible that the court may want to have a series of fact-finding hearings with respect to individual relief pursuant to a Title VII action. In many instances, it has been the practice of the court to appoint a Special Master or U.S. Magistrate to conduct such hearings and to gather the facts and make initial determinations as to the amount of relief due on a case by case basis. The District Judge, however, retains final authority in the matter and may accept or reject the Special Master's or Magistrate's findings.

3. What is your view concerning the (1) constitutionality and (2) legality under Title VII of affording preferences in hiring, promotion, transfer, etc. to individuals who are members of a group (e.g., Blacks, Hispanics, Women, etc.) discriminated against in the past, but who themselves have never been the subject of discriminatory conduct?

It is clear that Congress, in its 1972 Amendments to the Civil Rights Act of 1964, intended that the effective eradication of employment discrimination should be a matter of high national priority. The conditions under which companies make employment decisions generally take into account a full range of considerations necessary to fulfilling their corporate objectives, which often are and should be in concert with national priorities. Because there are generally a number of such corporate objectives present in even the most basic employment decision, companies often are placed in situations where those objectives must be balanced. In my view, the use of preferences for the achievement of this national priority, evidenced by the passage of the 1972 Amendments, is proper where a corporation is not sacrificing job-related performance standards and selection criteria.

4. Within the past few years, several companies and universities have found themselves subject to duplicitous enforcement proceedings based on the same claim of discriminatory conduct. At any given time, for example, a university might find itself subject to legal actions brought under Title VII of the Civil Rights Act, and Executive Order 11246 to remedy the same or closely related instances of discrimination. What steps will you take to insure that the Government's enforcement efforts are more closely coordinated?

As a result of Reorganization Plan No. 1 of 1978 and Executive Order 12067, which provide for the coordination of Federal equal opportunity programs, the Office of Interagency Coordination was established within the Equal Employment Opportunity Commission (EEOC). The EEOC gave this office the responsibility to carry out the Commission's mandate to avoid duplication and provide leadership and coordination to the efforts of Federal departments and agencies enforcing Federal laws that prohibit discrimination in employment.

I can assure you that before I cast any vote approving new regulations or litigation, all questions of duplication of effort will be examined by me, since duplicitous regulations or enforcement proceedings are unnecessary and wasteful.

ROBERT T. STAFFORD, VT.
DAN QUAYLE, IND.
PAULA HAWKINS, FLA.
DON NICKLES, OKLA.
LOWELL P. WEICKER, JR., CONN.
GORDON J. HUMPHREY, N.H.
JEREMIAH DENTON, ALA.
JOHN P. EAST, N.C.

EDWARD M. KENNEDY, MASS.
JENNINGS RANDOLPH, W. VA.
HARRISON A. WILLIAMS, JR., N.J.
CLAIBORNE PELL, R.I.
THOMAS F. EAGLETON, MO.
DONALD W. RIEGLE, JR., MICH.
HOWARD M. METZENBAUM, OHIO

GEORGE M. PRITTS, JR., CHIEF COUNSEL
ROBIN W. TAYLOR, STAFF DIRECTOR AND GENERAL COUNSEL
LAWRENCE C. HOROWITZ, M.D., MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON LABOR AND
HUMAN RESOURCES
WASHINGTON, D.C. 20510

February 2, 1982

Ms. Catherine Ann Shattuck
Equal Employment Opportunity Commission
Washington, D.C.

Dear Ms. Shattuck:

It will not be possible for me to attend the hearings on your nomination for the position of Commissioner on the Equal Employment Opportunity Commission. These hearings are scheduled for February 2, 1982 at 9:30 a.m. in Room 4232 Dirksen S.O.B. before the Senate Committee on Labor and Human Resources.

Accordingly, in lieu of my questioning at the hearings, attached for your completion are a series of written questions pertaining to your nomination. Return your answers as promptly as possible. Your diligence in this matter is appreciated.

Sincerely,

Harrison A. Williams Jr.

Harrison A. Williams, Jr.

HAW/ll

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

February 3, 1982

The Honorable Harrison A. Williams, Jr.
Committee on Labor and Human Resources
United States Senate
Washington, D.C.

Dear Senator Williams:

Attached are my responses to the series of written questions you submitted to me in lieu of questioning at the February 2, 1982 confirmation hearing held on my nomination for the position of Commissioner on the Equal Employment Opportunity Commission.

Sincerely,

Cathie A. Shattuck

Cathie A. Shattuck
Commissioner

Attachments

1. Recount the experience that you have had in the area of administration and management that you believe serves as qualification for the responsibilities that you would assume as an EEOC Commissioner.

The experience that I have had in the areas of administration and management, which I believe serve as qualification for the responsibilities I have assumed as an EEOC Commissioner, include the following: (1) From 1977 through 1981 I was responsible for the staffing and general administration and management of my own law office. In addition, during that period I served as an attorney for various small corporations and through that client relationship, provided those corporations with advice and counsel on management, organization, administration and finance. (2) I have served on the Board of Directors of the YWCA of Metropolitan Denver, KGNU (a public radio station), and the Denver Exchange. Through these experiences as a member of boards of directors, I have participated in both financial planning and general policy making for large organizations. I also advised the board of directors of various small, private corporations with regard to formulation of policy and financial planning.

2. Describe any major EEO litigation in which you served as counsel which might require you to recuse yourself from participation in matters before the Commission concerning particular companies or particular cases.

While I can think of no major EEO litigation in which I served as counsel which might require me to recuse myself from paticipation in matters before the Commission concerning particular companies or particular cases, in the event that a conflict of interest arises, I would not participate by vote or other action in the matter.

3. Briefly describe the nature of your law practice since you have gone into private practice. Have you had partners or associates? What types of cases (civil, criminal, EEO, other) have you primarily handled?

My private law practice has been in the civil area with few exceptions. From 1971 through 1978 I was in partnership in association with Sylvian Roybal in Denver. From 1978 through 1981, I was a sole practitioner in the practice of law and was associated in an office sharing arrangement with three other attorneys. My practice dealt primarily with matters concerning equal employment opportunity, employee relations and general business organization. I also have represented a company as its personal counsel in the financing arrangements and sale of a private bond issue.

In terms of cases directly related to EEO, two of the cases in which I represented the plaintiff were tried to the court to a successful conclusion during the period I was in private practice. One case was tried to an administrative law judge under the auspices of EEOC, and that was also successful. I also defended two separate corporations in EEOC lawsuits. In one case, I represented a defendant who prevailed in the matter. In the other, the defendant prevailed with respect to charges about outrageous conduct but did not successfully defend the case with respect to allegations involving violations of Title VII.

5. Delineate the division of authority between the EEOC Commissioners and the EEOC General Counsel in matters of policymaking. Describe this division both as to questions of overall policy and as to decisions on the litigation of particular cases.

With regard to the division of authority on policy issues, the General Counsel serves as the legal advisor to the Commissioners, individually and collectively. The Commissioners are responsible for initiating, developing and refining the interpretive policies for the statutes the agency administers and enforces. These policies guide the Commission's compliance and legal staffs and inform the public regarding the Commission's statutory obligations.

The present Commission policy provides the General Counsel shall be responsible for the conduct of EEOC, Age, Equal Pay and Title VII litigation. In practical terms, this means that the General Counsel office staff analyzes charges that have been investigated and found meritorious to initially determine whether they should be litigated. Those that the General Counsel believes should be litigated are forwarded to the full Commission for its review and approval at its regularly scheduled meeting. Those cases the Commission approves for litigation are filed in the appropriate U.S. District Court by the Office of General Counsel.

4. How do you conceive of your role as an EEOC Commissioner? What are the main duties and responsibilities of this job as you understand it?

I perceive my role as an EEOC Commissioner to have two main areas of responsibility. The first area of responsibility relates to full participation in Commission decision-making in the areas of policy, financial planning (budget), regulation, interagency coordination, proposed litigation, Freedom of Information Act and federal employees appeal actions. I generally intend to do all I can as a voting member of the Commission to assure full enforcement of the various laws administered by EEOC.

The second area of responsibility involves actively maintaining and developing means by which the vast EEO constituency may participate by full expressions of views, complaints, ideas and other appropriate input on the activities of the Commission. This continuing dialogue will focus on the natural changes which will occur as the various court decisions further define and determine the means by which the Commission's enforcement efforts are to be carried out.

6. Describe your understanding of the responsibility of EEOC Commissioners in the area of budget administration. What particular contributions do you hope to make in this area?

On September 19, 1974, the Comptroller General of the United States, in response to an inquiry sent to him by three EEOC Commissioners, sent a decision to the Commission addressing the issue of the extent of EEOC Commissioners' authority to establish standards governing Commission spending and contracting actions. His decision, which said that the "full Commission has authority to establish reasonable standards to govern contracts and other uses of funds," removed the then-existing doubt in some Commissioners' minds as to their authority regarding these matters. Because I have read the General Accounting Office's interim report on the financial management problem of the Commission, I realize that this responsibility of an EEOC Commissioner is one I must exercise diligently. I have also read Acting Chairman Smith's December 1981 letter to Chairman Hatch, wherein he informed Chairman Hatch that he had directed staff to immediately begin to address all of the deficiencies identified in the interim report. I strongly support the action Acting Chairman Smith promised to take in this letter, and I have already focused my attention on this serious Commission problem so that I can deterimine what actions I can take as a Commissioner to assist in expeditiously eliminating the deficiencies that are set out in this report.

8. Do you plan to maintain the "open door" policy adopted by certain previous Commissioners so that interested public groups that are concerned with EEO issues can convey their views and concerns to you?

Yes. I have already started to organize a system whereby I will meet with various public groups and individuals so that they may express their views and concerns to me. I believe this process will be of great value to me and the Commission. I hope to use these regular meetings to fully explore the concerns and views of these groups, since I regard such communication as a vital tool to use in fully understanding all the ramifications of the decisions Commissioners make.

9. Give us your assessment of the status of equal employment opportunity in our country at this time. How much progress has been made? What remains to be done?

The equal employment opportunity laws that have been enacted on the state, local and federal levels during the last two decades have had a clearly recognizable effect on discriminatory employment practices in our country. Today victims of employment discrimination preceive that government provides a means of redress for their employment discrimination grievances. Daily they feel and benefit from the expanding openings of new employment opportunities. Today employers more clearly recognize the positive role they can have in this area and, as a result, they have improved their ability to identify employment systems having a discriminatory impact and to manage human resources more fairly.

While much progress has been made, and those who have participated in accomplishing this achievement have reason to be proud, most people today will acknowledge that there are still barriers to equality of employment opportunity in the workforce. Vigorous government enforcement of EEO laws must continue, new relationships of confidence must be established to enhance the early mutual resolution of complaints, unnecessary burdens and ineffective regulations must be removed so that productive resources are not wasted, and cooperation and coordination of EEOC administration must be improved so that the limited resources being devoted to these efforts are maximized.

10. Are there any special areas of concern that you have in the EEO field, based on your experience and legal practice? How do you hope to highlight these concerns through the course of your work at the Commission?

In addition to my lifelong commitment to the principles of equality of opportunity, I have a special concern that some segments of our population are not fully communicating their concerns to the Commission. For example, Native Americans have concerns that are both in common with other groups and individual in nature, and it has been my experience that they have not been full participants in the equal employment dialogue. I would hope to highlight this concern through personal contact with Native American leaders and through encouraging the various tribes to make use of the mechanisms in place at the EEOC to insure their full protection under the law.

I am also concerned, as I stated in my response to Question No. 8, that I and the Commission obtain full information from our constituency and take such information into consideration in making decisions.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

February 5, 1981

Honorable Edward M. Kennedy
Committee on Labor and Human Resources
United States Senate
Washington, D. C. 20510

Dear Senator Kennedy:

Attached are my responses to the written questions you submitted to me during the confirmation hearing held on my nomination for the Equal Employment Opportunity Commission.

Sincerely yours,

Cathie A. Shattuck

Cathie A. Shattuck
Commissioner

Attahcments

90-706 O - 82 - 4

1. Recent reports, including stories in the Daily Labor Report, the Washington Post, and the Wall Street Journal, indicated that the EEOC's new General Counsel announced the following at a meeting which you attended. I would like your views on these issues:

   a. The General Counsel stated that he did not believe in "strict liability" in sexual harassment cases, and that he would seek to limit the scope of actions in sexual harassment cases so as to make employers liable only where company policy was directly involved. Under this interpretation, an employer would not be liable when a senior executive sexually harassed a clerical employee. What is your position on this subject?

EEOC has adopted guidelines with respect to sexual harassment, 29 CFR Part 1604.11 et seq. These guidelines are the official policy of EEOC, and as a Commissioner I would follow the policies as set forth by the Commission. As to the parameters of what constitutes sexual harassment and what liability follows from such conduct, I can only say that the courts, through their decisions, are currently hearing cases which will further define the consequences of such conduct. I would note that EEOC's sexual harassment guidelines have been cited favorably by a Federal District Court in Oklahoma and by the District of Columbia Circuit Court of Appeals. Since my appointment to the Commission, I have voted to file lawsuits alleging sexual harassment, and in no way did these cases indicate a departure from Commission policy.

   b. The General Counsel has asserted that he has broad prosecutorial discretion in other areas as well, and that he will use it to discourage age discrimination lawsuits in cases which he feels might result in what he termed a severe "economical hardship" for employers. What is your position on this subject, with respect both to age discrimination enforcement and to the notion of 'prosecutorial discretion' within the Office of General Counsel?

I discussed this question with the General Counsel, and he informed me that when he made his remark, he had in his mind a particular litigation recommendation in a particular age discrimination case that had been presented to him for review a short time earlier against a company that was not economically viable. Using this situation for illustrative purposes, the General Counsel took the opportunity to tell those recommending this particular litigation that the ability of a company to respond to a court judgment was a factor he wanted staff attorneys to consider when they drafted their suit recommendation memorandum to him, since a legal victory against a judgment-proof employer does nothing for the victims of the employers' discrimination and unnecessarily consuming the General Counsel Office staff and financial resources. This earlier incident was the premise for his later reported remark. Certainly the ability to collect and/or implement a litigated judgment against a discriminating employer is one factor to review when the Commission considers litigation.

The prosecutorial discretion of the Commission, as the General Counsel realizes, is not unrestrained. The General Counsel and the Commissioners share litigation responsibility. For example, section 16.8 of the Commission's compliance manual, which deals with the review of systemic case litigation recommendations, states that "[i]f litigation of a case is not recommended, the General Counsel will promptly advise the Chair, the Executive Director, the Director, OSP [Office of Systemic Programs], and the appropriate District Director in writing of the reasons therefore." This notice requirement assures that a negative response to a litigation recommendation by the General Counsel is reviewed by others. Because of this particular restraint and others on the prosecutorial discretion of the General Counsel, I do not foresee the present need for any new restraints in this area.

e. The General Counsel stated that he plans to shift emphasis away from class actions to individual one-on-one type lawsuits. The EEOC has frequently been criticized in the past for failing to fulfill its statutory mission to bring pattern and practice or systemic lawsuits in sufficient numbers. What are your views on this subject? Would you advocate an improved class action and systemic program?

Present Commission budget and staff require a Commission litigation program that has a mixture of class and one-on-one lawsuits. There are several good reasons for this. Some of the reasons are: (1) the present Commission litigation docket has several class action suits on it already and several on-going class investigations will likely result in additional class action litigation docketing. This litigation will require numerous staff and large expenditures (one of the suits, for example, is presently projected to require more than 10% of the General Counsel's FY 1982 budget); (2) many present General Counsel staff attorneys do not have trial experience and to place them on class action suits would be unconscionable; (3) one-on-one lawsuits can give the Commission an important voice on cutting-edge equal employment opportunity issues without requiring the Commission to incure the large pre-trial staff and budget expenditures associated with class action suits; and (4) one-on-one lawsuits can provide valuable avenues for training Commission trial attorneys. Of course, I fully support improving the Commission's litigation program, and I will actively pursue this matter during my tenure on the Commission.

2. On a related matter, the General Counsel has stated that he would begin issuing opinion letters under a little used provision of Section 713(b) of the 1964 Civil Rights Act. Many are concerned that this practice, if it were permitted, might preempt the policy formulation responsibilities of the Commission as a body; would insulate employers; and would make it difficult for private parties to bring suit. Although this is a policy matter for the Commission to decide as a body, what are your thoughts on the subject?

Section 713(b) of Title VII states that "no person shall be subject to any liability or punishment...if he pleads and proves" that he was acting "in reliance on any written interpretation or opinion of the Commission." EEOC's procedural regulations (35 F.R. 18692) stipulate that only the following may be considered a "written interpretation or opinion" of the EEOC: (1) a letter entitled Opinion Letter and signed by the General Counsel on behalf of the Commission, or (2) a matter published and so designated in the Federal Register. Further, since the regulations require that anyone wishing an opinion on a legal matter must send his request to the Chair of the Commission, any Opinion Letter would be approved by the Commission before being signed by the General Counsel and mailed to the requestor. Therefore, I do not believe the Commission's policy-making role can be preempted.

3. As you know, the Commission as a body has the responsibility for developing and establishing policy for EEOC, as well as lead-agency responsibility for the formulation of equal employment opportunity policy for the federal government. Would you consider it appropriate to delegate this responsibility or allow the Justice Department, or any other agency, to dictate or make lead policy decisions in the area of civil rights enforcement over which the EEOC has jurisdiction?

The responsibility EEOC received in Reorganization Plan Number One of 1978 and Executive Order 12067 to provide leadership and coordination to Federal agencies administering and enforcing equal employment opportunity status, orders and regulations was affirmed in last summer's exchange of letters between Acting Chairman J. Clay Smith, Jr. of this agency and James C. Miller III, Administrator for Information and Regulatory Affairs, Office of Management and Budget. This exchange made clear that EEOC will continue to perform the Executive Order functions that were set out in Executive Order 12067 and that a delegation of these responsibilities to the Department of Justice is not foreseen by the present Administration.

4. As a former civil rights attorney, what does the phrase "make whole" mean in terms of eliminating the present effects of the past acts of discrimination?

EEO statutes require, where it is established that employment discrimination exists, that such discrimination cease and its consequences be eliminated by employer action, e.g., that an applicant or employee be "made whole" by present corrective employer action such as back pay, promotion, etc. so that, in so far as is practicable, the victim of discrimination is where he or she would have been but for the employer's discrimination.

5. What is your position regarding back pay as a remedy, in employment discrimination litigation, and as a general government policy?

Title VII of the Civil Rights Act of 1964, as amended, clearly authorizes the awarding of back pay as a remedy in employment discrimination cases. Under circumstances where a case of employment discrimination has been alleged and in which an affected charging party has suffered a loss of wages or other monetary benefit by virtue of this alleged discrimination, it is my view that it is appropriate to seek a back pay remedy.

6. What is your position on affirmative action? To what extent do you share the views of the Assistant Attorney General for Civil Rights, who has made statements in the press and to others that he opposes the concept of affirmative action, as well as the concept of class-wide relief going to individuals who cannot prove that they were directly hurt by specific acts of discrimination? The Assistant Attorney General conceded that his views differed from established law. In what ways do your views differ from his?

I have not met the Assistant Attorney General nor held any discussions with him. I have not read any formal publication with regard to the Justice Department's views on affirmative action. It is difficult to address a response to a view which I am not certain has been accurately reflected through the press, which has been my only source of information. However, as I indicated in a response to a similar question from Senator Hatch, it is my view that the use of preferences for the achievement of eliminating historical discrimination, a national priority evidenced by the passage of the 1972 amendments to Title VII, is appropriate when an employer is not sacrificing job-related performance standards and selection criteria.

7. You have been with the EEOC now for nearly 45 days. What do you think some of its major priorities should be?

I think the Commission's priorities should be the vigorous enforcement of EEO laws, the establishment of new relationships of confidence to enhance early resolution of complaints, the review of Commission regulations, and the improvement of EEOC coordination and administration so that the Commission makes the maximum use of its limited resources.

8. What are your views on the subject of comparable worth?

There has been, and continues to be, a substantial dialogue regarding this issue. The Supreme Court has indicated that where there is some showing of manipulation of rates of pay or value of jobs based on factors such as sex, such manipulation may constitute a violation of Title VII.

It appears to me that one thing is certain from this dialogue -- that the issue is far more complicated than even practitioners in the area initially thought. It involves complicated and varied job evaluation procedures, complex standards for measuring the relative worth of jobs and difficult questions about the operations of complex economic institutions. Additionally, no definitive assessment of social and economic consequences of this issue has accompanied the present dialogue. The National Research Council, in a study commissioned by the EEOC, clearly recommends that careful thought be given to the impact that the possible consequences of this issue can have on the economic viability of firms and on the employment opportunities of women and minorities. In tandem with the continuation of the present dialogue must be a continuing effort toward equitable distribution of minorities and women in the workforce at all levels. It is of principal concern to me that the results of the dialogue not jeopardize the gains already made by women and minorities.

The CHAIRMAN. Our next confirmation will be Mr. Reynaldo P. Maduro, who has been nominated to serve as Assistant Director of ACTION by President Reagan, and I am pleased to welcome Mr. Maduro this morning.

ACTION has been lauded by this administration to be in the forefront of reawakening the spirit of voluntarism in the American people, a mission I find most important as we move America forward.

As Assistant Director, it is my understanding your major functions, Mr. Maduro, will be threefold: one, that of Inspector General, responsible for audits and investigations; two, the EEO responsibilities; and, three, responsibility for reviewing small and disadvantaged businesses.

In reviewing your background, it is as though you are the right person for this particular position. Your rich background, ranging from White House consultant to private business, gives you the needed perspective to oversee the affairs of this agency.

Now I note you were educated from coast to coast, having attended high school in the Bronx, N.Y., and ended up in Los Angeles State College in California. You have extensive employment experience in the Federal Government, serving not only with the White House but with the Department of Justice, the Selective Service, and the Immigration and Naturalization Service. I was particularly impressed with the role you played in combating world crime as it was described in Life magazine. I think you are to be commended for the bravery you demonstrated as a Treasury agent.

Congressman Robert Garcia has written to me strongly recommending you for this post, as have others, so at this time I will just submit those letters for the record, without objection.

[Material referred to follows:]

ROBERT GARCIA
21st District, South Bronx, New York

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEES:
BANKING, FINANCE AND URBAN AFFAIRS
SUBCOMMITTEES:
HOUSING AND COMMUNITY DEVELOPMENT
ECONOMIC STABILIZATION
FINANCIAL INSTITUTIONS SUPERVISION, REGULATION, AND INSURANCE
POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEES:
CHAIRMAN, CENSUS AND POPULATION
HUMAN RESOURCES
CHAIRMAN:
HISPANIC CAUCUS

December 8, 1981

Sen. Charles H. Percy
4321 Dirksen Senate Office Bldg.
Washington, D.C. 20515

Dear Mr. Percy:

As Chairman of the Congressional Hispanic Caucus, I am proud to support the nomination of Mr. Reynaldo P. Maduro for Assistant Director for Compliance at ACTION.

Rey has a long and distinguished career in the federal government. He served as an agent in the Treasury Department working to suppress narcotics traffic both domestically and in Latin America. He received numerous awards and commendations and was considered a top investigator.

In 1976, Rey became the first Puerto Rican to serve on the White House staff as a Deputy Special Assistant to the President. Serving in the Office of Public Liaison, Rey was responsible for developing, reviewing and evaluating the Administration's policies toward Hispanic and Ethnic Communities. Prior to this appointment, Rey was Executive Secretariat of the Law Enforcement Assistance Administration in the Department of Justice. He has Also served at the Immigration and Naturalization Service and at the Selective Service System where he was the Deputy Manpower Administrator and Director of the Equal Employment Opportunity Program.

Mr. Maduro's experience as a top notch investigator and his abilities and experience as an administrator make him an ideal candidate for this position.

Sincerely,

Robert Garcia

Robert Garcia
Member of Congress

RG/lb

ACTION
WASHINGTON, D.C. 20525

OFFICE OF
THE DIRECTOR

January 19, 1982

Honorable Orrin G. Hatch
Chairman
Senate Committee on Labor
and Human Resources
4230 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Senator Hatch:

On November 2, 1981 President Reagan forwarded to the United States Senate the nomination of Mr. Reynaldo P. Maduro for the position of Assistant Director for Compliance at ACTION.

His nomination is pending before your committee, the Committee on Labor and Human Resources. Mr. Maduro has a long and distinguished career in the Federal Government. While I know how busy your Committee's calendar is, it would be most helpful to ACTION if his nomination were acted upon your earliest convenience.

If my office can be of any further assistance to you, please feel free to call on me.

Sincerely,

Thomas W. Pauken
Director

The CHAIRMAN. Mr. Maduro, do you have a statement you would care to make at this time?

STATEMENT OF REYNALDO P. MADURO, NOMINATED TO BE ASSISTANT DIRECTOR OF ACTION

Mr. MADURO. No; I have no formal statement, Mr. Chairman, just thank you very much for your time and effort.

The CHAIRMAN. Well, we are very happy to have you here and we are very pleased with your nomination.

Let me just ask you a few questions: Since you have had extensive experience in Washington and in fighting drug crimes in Mexico, which do you consider the most dangerous, fighting crime or the bureaucracy?

Mr. MADURO. Well, on occasion, Senator, the reluctance of the bureaucracy to deal with some of the present problems as far as waste and integrity.

The CHAIRMAN. How best can we develop accountability to the public regarding the effective use of our tax dollars in an agency such as ACTION?

Mr. MADURO. Well, from the records that I have reviewed within the limited time that I have been at ACTION as a consultant, we certainly need to take a close look at the management of grants and contracts that have been let out by ACTION agency. There are approximately 1,100 grants and approximately 400-odd contracts. With a clear line toward establishing a reduction and eventual total limitation of waste, I think it is important that grants and contracts be let out to responsible organizations, whether they be nonprofit and/or profit organizations.

The CHAIRMAN. How can we measure efficiency in this organization, in your opinion?

Mr. MADURO. Well, basically by developing lines of communication to minority organizations, being careful that those recipients of funds are carefully monitored in order to exclude and limit the amount of waste that we have found on previous occasions to have taken place.

The CHAIRMAN. We are going to submit a series of written questions from Senator Kennedy. If you will answer those as quickly as possible we will be very grateful.

Mr. MADURO. Thank you.

The CHAIRMAN. We are pleased to have you nominated for this position. We appreciate having people like you who serve in government and serve well, and who are willing to give this kind of service. Thank you so much for coming.

Senator East, did you have any comments or any questions?

Senator EAST. No, thank you, Senator, I do not.

The CHAIRMAN. Thank you.

We are happy to have you here and we hope we can get you confirmed very quickly.

Mr. MADURO. Thank you.

The CHAIRMAN. Thank you so much, Mr. Maduro.

[The biographical sketch of Mr. Maduro, along with questions and responses and additional material supplied, follow:]

90-706 O - 82 - 5

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: MADURO (LAST) REYNALDO (FIRST) PHILIP (OTHER)

Position to which nominated: Assistant Director, ACTION (Office of Compliance) Date of nomination: November 2, 1981

Date of birth: 10 / 10 / 31 (DAY) (MONTH) (YEAR) Place of birth: New York, New York

Marital status: Divorced Full name of spouse: N.A.

Name and ages of children: Lisa Marie Maduro Age 22
Reynaldo P. Maduro, Jr. Age 18
Cristina Maduro Age 8

Education:

Institution	Dates attended	Degrees received	Dates of degrees
DeWitt Clinton H.S., Bronx, New York	1947	1950	
Modesto Jr. College Modesto, CA	1955	1957	A.A.
Drake University Des Moines, Iowa	1957	1957	
Los Angeles State College, Los Angeles, CA	1958	1958	

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Athletic Scholarship to Modesto Junior College, 1955-57.

Athletic Scholarship to Drake University, 1957-58.

Treasury Awards: 1959 - $500; Special Service Award, 1965-66 - $500; Superior Work Performance, 1967 - $200.

Selective Service System, Outstanding Performance 1972.

City of Miami - August 24, 1973 - Efforts in furthering international

(See Attachment A)

1

ATTACHMENT A

Relations and Advancing Peace & Freedom.

National Conference of Hispanic Law Enforcement Officers, voted the Outstanding Hispanic Government Award, November 1973.

Hall of Fame - Hispanic International Research Institute, June 15, 1973 for Commendatory Efforts in Furthering Hispanic American Relations, Progress and Understanding.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
N.A.		

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

FROM	TO	TITLE/JOB DESCRIPTION	NAME OF EMPLOYER	LOCATION
10/26/81	Present	Consultant	(Office of ACTION Compliance)	Washington, D.C.
3/81	8/22/81	Consultant	U.S. Selective Service System	Washington, D.C.
12/80	1/81	Office of the President, Treasury Transition Team		Washington, D.C.
1/78	10/23/81	Self-Employed, Consulting	RPM & Associates	Washington, D.C.
1/77	12/77	Vice President International	B & C Associates	Washington, D.C.
7/76	1/77	Deputy Special Assistant to the President	The White House	Washington, D.C.
8/75	7/76	Director, Executive Secretariat	Dept. of Justice, LEAA	Washington, D.C.
4/75	8/75	Staff Assistant	Dept. of Justice, Immigration & Naturalization Service	Washington, D.C.
12/74	3/75	Consultant to the President	The White House	Washington, D.C.
4/73	12/74	Executive Director, Cabinet Committee on Opportunities for Spanish Speaking People (CCOSSP)	The White House	Washington, D.C.
9/72	4/73	Acting Staff Director CCOSSP	The White House	Washington, D.C.
1/71	9/72	Deputy Manpower Administrator, National Headquarters	Selective Service System	Washington, D.C.

SEE ATTACHMENT B for additional employment record

ATTACHMENT B

FROM	TO	TITLE/JOB DESCRIPTION	NAME OF EMPLOYER	LOCATION
3/70	1/71	Self-Employed, Industrial Security		Lomas, Mexico
3/70	8/70	Consultant	The Post Company	Dallas, Texas
6/67	3/70	Chief of Security	Investors Overseas Services	Geneva, Switzerland
1/59	6/67	Federal Agent	U.S. Treasury Dept. Bureau of Narcotics	Washington, D.C.
11/58	12/58	Clerk	Bullock's Dept. Store	Los Angeles, California
7/58	11/58	Student	Los Angeles State College	Los Angeles, California
8/56	9/56	Cannery Laborer	Turlock Co-Op Growers	Modesto, California
7/55	9/55	Clerk	U.S. Post Office	New York, New York

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

N.A.

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

N.A.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Reagan-Bush Presidential Campaign, 1980, Northeastern and Puerto Rico Coordinator at campaign headquarters (Salaried employee).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

YES

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

NO

3. Has a commitment been made to you for employment after you leave Federal service?

NO

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

YES

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

N.A.

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflicts of interest with the position to which you have been nominated.

N.A.

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

N.A.

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

N.A.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

N.A.

L G GRAVES PUBLISHING J RUSSELL
295 MADISON AVE
NEW YORK NY 10017

western union Mailgram

4-054244S036 02/05/82 ICS IPMMTZZ CSP WSMB
2128898220 MGM TDMT NEW YORK NY 130 02-05 0548P EST

HONORABLE P MADURO
806 CONNECTICUT AVE NORTHWEST
WASHINGTON DC 20525

I WOULD LIKE TO URGE YOU TO APPOINT MR. REYNALDO P MADURO TO THE PERMANENT POSITION OF ASSISTANT DIRECTOR FOR COMPLIANCE, ACTION AGENCY. FOR MORE THAN 2 DECADES I HAVE KNOWN MR MADURO BOTH PERSONALLY AND PROFESSIONALLY. HE HAS PERFORMED OUTSTANDINGLY IN BOTH GOVERNMENT AND PRIVATE SECTOR AND HAD AN OUTSTANDING CAREER AS A CRIMINAL INVESTIGATOR BOTH DOMESTIC AND INTERNATIONAL WITH THE FEDERAL BUREAU OF NARCOTICS. HIS RECORD WHILE SERVING AS A DEPUTY SPECIAL ASSISTANT TO THE PRESIDENT AT THE WHITE HOUSE 1976 THRU 1977 WAS ALSO MOST COMMENDABLE. HIS TIRELESS COMMITTMENT AND CAREER AS A PUBLIC SERVANT ARE EXEMPLARY. THUS I AM MOST HONORED TO RECOMMEND HIS APPOINTMENT.

CC HONORABLE REYNALDO P MADURO
L G GRAVES, EDITOR AND PUBLISHER

17149 EST

MGMCOMP

TO REPLY BY MAILGRAM SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

QUESTIONS FOR REYNALDO MADURO SUBMITTED BY SENATOR KENNEDY

1. (a) Please describe in detail the duties of the Assistant Director for Compliance.

(b) Please describe the experiences and qualifications that you possess for the performance of these duties.

2. (a) In your biographical statement, you indicate that in September, 1972, you became acting staff director of the Cabinet Committee on Opportunities for Spanish-Speaking People (CCOSSP). According to that statement, you were promoted in April of 1973 to the position of executive director and remained in that position until December, 1974. Is that information correct?

(b) What were your specific duties with the Cabinet Committee?

(c) As I am sure you are aware, a number of House committees as well as the Senate Watergate Committee have investigated the activities of the CCOSSP during the 1972 Presidential election campaign. These investigations uncovered evidence that the Committee and its staff actively aided the reelection efforts of then President Nixon by attempting to arrange federal grants, appointments, and employment for Nixon's Hispanic supporters. In addition, they attempted to intimidate and defund those Hispanic federal employees and grantees who were not Nixon supporters. Were you aware of any such actions during your tenure as acting director and executive director? Please describe such actions. Were you in any way directly or indirectly involved in such efforts? Please describe any such efforts.

3. (a) What should be the primary goal of the ACTION agency during the Reagan Administration?

(b) Do you see yourself operating as a strong advocate within the agency for the poor and the minorities in this country? How will you so operate?

90-706 O - 82 - 6

ANSWERS TO SENATOR KENNEDY'S QUESTIONS BY REYNALDO MADURO, NOMINEE FOR ASSISTANT DIRECTOR FOR COMPLIANCE

1 (a) The Assistant Director serves as Director of the Office of Compliance, reporting directly and confidentially to the Director of ACTION. The Office of Compliance consists of two operating divisions: the Inspector General's Division and the Equal Opportunity Division. The Inspector General's Division, headed by the Inspector General (ACTION does not have a statutory IG), provides an independent, senior level, central authority to review, monitor and investigate any and all programs and operations of ACTION, including outside contractors and grantees, and is responsible for overall audit, investigative and review of compliance activities. The Equal Opportunity Division is responsible for developing, promulgating, implementing and interpreting of all policies and practices with regard to equal opportunity.

The Director's responsibility is to (1) provide broad direction and supervision over all functions of the Office of Compliance; (2) develop short- and long-range goals and priorities; (3) manage budget and other resources allocated to the office; and (4) execute plans approved by the Director of ACTION.

The Director of the Office of Compliance is a member of the agency's senior and executive staff and serves as the principal advisor to the Director of ACTION, Associate Directors, Assistant Directors and other managers on all matters affecting or reflecting the integrity of all aspects of the management and administration of ACTION, its programs and operations.

The Director of the Office of Compliance serves as liaison between ACTION, other Federal and state agencies, and governmental and non-governmental entities with respect to audit, investigative, and civil rights matters.

1 (b) In January 1959 I was sworn in as an Agent with the Federal Bureau of Narcotics, (Treasury Department). That same evening I initiated my first case and approximately a month later brought it to a successful conclusion with a multikilo seizure in New York City.

Subsequently I was one of the most productive Agents in the Bureau, receiving numerous awards as stated in my submitted forms for the Committee's consideration.

In January 1960 a LIFE Magazine article cited a case I initiated in New York and successfully concluded in Mexico City capturing an international drug merchant considered the "Al Capone" of Mexico.

Then in December 1962 I was asked to open a new operation of the Federal Bureau of Narcotics in Latin America based out of the Republic of Mexico.

I served as the Deputy in charge of Latin America from 1962 to 1967. During that period I was awarded the highest award by the Secretary of the Treasury (September 2, 1966).

DIRECTOR FOR [illegible]PLIANCE (cont'd)

My private sector experience revolved around security, fraud and investigations in cost overruns.

I returned into government in January 1971 with the Selective Service System as Deputy Manpower Administrator and the first Director of Equal Employment Opportunity. The Service at that time had, I believe, over 40,000 employees (part and full time).

One of the important functions was to improve the minority and women compositions of the local draft boards around the country. We were able to accomplish a marked improvement in addition to selecting the first Black State Director in the history of the System.

2 (a, b & c) In September 1972 at the request of the White House I was selected Acting Staff Director of the Cabinet Committee on Opportunities for Spanish Speaking People. (See attached memorandum from Counselor Bob Finch dated August 17, 1972).

The Committee according to a senior White House official needed strong fiscal and management direction.

Accordingly under this mandate I was made responsible for developing effective programs in these areas.

I am taking the liberty of attachin a letter dated January 20, 1975 to then-President Ford from Congressman Frank Horton, recommending me for a position of responsibility. I hope that this letter serves to clear up any apprehension you and the Committee might have as to the role I played with the Cabinet Committee.

In furtherance of the above I am also submitting as testimony of my relationship with the Hispanic community during this period letters from active leaders of our community.

Senator, you have asked me a series of questions which revolve around a period of time that I was in an acting capacity (September 1972 to April 1973). I again submit and refer to Congressman Horton's letter of January 20, 1975, along with above mentioned letters in addition to one from Mr. Raul Yazquirre, Executive Director, National Council De la Raza.

However, to be specific, I was not involved or aware in the alleged activities to "intimidate and defund those Hispanic federal employees and grantees who were not Nixon supporters."

3 (a) ACTION, the national volunteer agency, should serve to stimulate voluntarism and to demonstrate the effectiveness of volunteers in addressing social programs. It should take the necessary measures to restore the public faith in the notion of social obligation and good neighborliness--fundamental features of American society.

(b) As the Director of the Office of Compliance I see myself in a dual role, that of a reviewer, monitor, auditor and investigator of programs and operations

ANSWERS TO SENATOR KENNEDY'S QUESTIONS BY REYNALDO MADURO, NOMINEE FOR ASSISTANCE DIRECTOR FOR COMPLIANCE (cont'd)

of ACTION to insure the integrity of all aspects of management; and that of a prompter of aggressive actions to assure the Agency's compliance with Title VI and Title VII of the Civil Rights Act of 1964, as amended.

Attachments

1. Memorandum for Byron V. Pepitone, Director Selective Service System
2. Letter from Frank Horton to The President
3. Performance Rating Work Sheet (Reynaldo Maduro)

THE WHITE HOUSE

WASHINGTON

August 17, 1972

MEMORANDUM FOR:

BYRON V. PEPITONE
Director
Selective Service System

SUBJECT: Reynaldo P. Maduro

Pursuant to discussions you have had with my Executive Assistant, Mr. Rayburn Hanzlik, I wish to affirm my request for the temporary services of one of your staff, Mr. Reynaldo Maduro. After a thorough review of candidates by the Civil Service Commission, Mr. Maduro appears to be the most qualified Spanish-surnamed Federal official available to fill the position of Staff Director at the Cabinet Committee on Opportunities for the Spanish Speaking People. In view of the immediate necessity to fill this position, I appreciate your willingness to immediately detail Mr. Maduro to the Cabinet Committee for the remainder of this calendar year.

If agreeable with you, I would like Mr. Maduro to commence his new duties by September 1.

I greatly appreciate your cooperation in this matter.

Robert H. Finch
Counsellor to the President

cc: Dr. Henry Ramirez

FRANK HORTON
M.C. REPRESENTATIVE
34TH DISTRICT OF NEW YORK

COMMITTEE:
GOVERNMENT OPERATIONS
RANKING MINORITY MEMBER

DAVID A. LOVCHHEIM
ADMINISTRATIVE ASSISTANT

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON OFFICE:
2229 RAYBURN BUILDING
WASHINGTON, D.C. 20515
(202) 225-4916

DISTRICT OFFICES:
314 FEDERAL BUILDING
ROCHESTER, NEW YORK 14614
(716) 263-5370

WAYNE COUNTY OFFICE BUILDING
LYONS, NEW YORK

January 20, 1975

Dear Mr. President:

This is to follow up my letter of January 2 requesting the need for the continuation of some government-wide effort to attend to the needs of American-Spanish speaking people. As you know the Cabinet Committee on Opportunities for Spanish Speaking People expired under unfortunate circumstances during the final hours of the 93rd Congress. As the ranking minority member of the Committee on Government Operations, which not only handled legislation concerning the Cabinet Committee but which also carried thorough overishgt into its function, I have been deeply impressed by the skill and dedication of the former executive director of the Cabinet Committee, Reynaldo (Rey) Maduro. During the short months between August and December of last year when Rey functioned as the de facto head of the Cabinet Committee in the absence of the Chairman, I, and others in Congress, witnessed a refreshing rejuvenation of the dedication of that panel and the staff to the real needs of Spanish-Speaking Americans. As a Californian of Puerto Rican decent, Rey is in a unique position to understand and deal with the mutual and the divergent problems of both the Mexican-American and Puerto Rican portions of our large Hispanic population.

I have been impressed with his administrative abilities, with his outstanding ability to work in the field with members of the Hispanic community and their leaders and with his ability to understand and deal with the Congress. Now that Cabinet Committee has disbanded, I hope you will look to Rey as a candidate for a position of responsibility within the Executive Branch in which his talents can be fully utilized to the benefit of your Administration and our Nation.

With kindest personal regards,

Sincerely,

Frank Horton

Frank Horton

The President
The White House
Washington, D.C.

cc: Mr. William Walker
cc: Mr. Fred DeBaca

SELECTIVE SERVICE SYSTEM

Approved by Civil Service Commission May 15, 1958

PERFORMANCE RATING WORK SHEET

NAME OF EMPLOYEE	PERIOD COVERED (From, To)
Maduro, Reynoldo P.	April 1, 1971 to March 31, 1972
TITLE OF POSITION, GRADE AND SALARY $26,436 Deputy Manpower Administrator, GS-301-15	ORGANIZATION (National Headquarters, State Headquarters, Local Board, Appeal Board, etc.) National Headquarters

INSTRUCTIONS.--Consult detailed instructions in Administrative Bulletin No. 2.19. Rate elements 1 to 4. Rate supervisors on element 5 as well. Additional elements may be added in item 6 and on the reverse side if important requirements of the job are not adequately covered in elements 1 to 5. Any total rating of 'Outstanding' or 'Unsatisfactory' must be supplemented with a written explanatory statement.

RATING ELEMENTS			INDICATE BY "X"			
			Outstanding	Excellent	Satisfactory	Unsatisfactory
1. Volume of work	Degree to which quantity of work turned out meets requirements.	Consider: Amount of work produced; rate of progress on assignments.	X			
2. Quality of work	Degree to which quality of the work meets requirements.	Consider: Accuracy, precision, completeness, and acceptability of work.	X			
3. Work habits	Degree to which employee facilitates work of others.	Consider: Organization of work; observance of rules and procedures; cooperation and tact; conduct on the job; dependability.	X			
4. Work attitude	Degree to which employee applies himself to job.	Consider: Enthusiasm for the work; acceptance of supervision; adaptability to changing conditions; willingness to accept responsibility.	X			
5. Supervisory ability	Degree to which supervisor obtains results from those under his supervision.	Consider: Effectiveness in directing and reviewing the work of others, establishing standards of performance, training subordinates, and delegating authority.	X			
Other (specify) 6.						

RATING

Date	Rating official (signature and title)				
April 30, 1972	Reynoldo Maduro Deputy Manpower Administrator	X			
Date	Reviewing official (signature and title)				
April 26, 1972	Thomas K. Reed	X			
Date	For unsatisfactory or outstanding ratings only: Designated official or committee chairman (signature and title)				

DEFINITIONS OF RATINGS

OUTSTANDING: Performance of which all aspects not only exceed normal requirements but are outstanding and deserve special commendation.

EXCELLENT: Performance which fully meets all requirements and which exceeds such requirements in the majority of the principal duties of the position.

SATISFACTORY: Performance which at least meets requirements in the principal duties of the position and, if in any respects performance does not adequately meet requirements, performance in other respects compensates for deficiency.

UNSATISFACTORY: Performance which fails to meet requirements of the position.

SSS FORM NO. 488 (Revised 8-7-57) (Previous printing shall not be used)

Mr. Reynaldo P. Maduro has performed all of his duties in a clearly outstanding manner. He has diligently applied his strong leadership talents, perseverance, and common sense in human relations to provide this agency with an effective and comprehensive positive action programs in the equal opportunity program.

Mr. Maduro has been instrumental in establishing and fostering harmonious interracial relationships. He possesses a firm belief in democratic values and readily establishes cordially responsive working relationships with an acute sensitivity to social issues. He works easily and well with individuals and groups of varied backgrounds, cultures, and outlooks, and has a contagious enthusiasm for the application of common sense in human relations.

Mr. Maduro is quick to recognize incipient problems early and recommends or takes the actions necessary to resolve them before a crisis arises. He has a deep commitment to improving the quality of life and opportunity for all employees. He is clearly an outstanding and dedicated employee.

The CHAIRMAN. Our last person that we want to chat with in this confirmation hearing today is Mr. William John Bennett.

Bill, we are happy to welcome you to the committee today and we are pleased to have you with us.

Mr. Bennett is from North Carolina and he has been nominated by President Reagan to be chairman of the National Endowment for the Humanities. Although Mr. Bennett was born in New York, he acquired his schooling in a number of other States, having culminated his degree programs with a Ph. D. from the University of Texas, and a law degree from Harvard which I will try not to hold against you.

Dr. BENNETT. Thank you, sir. [Laughter.]

The CHAIRMAN. It will take some real effort on my part, I might add.

I am always personally impressed when I see an employment history like yours. It is really exciting. You have worked at what some consider the most menial tasks. As I recall, at one time you were a garbage collector.

Dr. BENNETT. Yes, sir.

The CHAIRMAN. Well, I was a janitor at one time. Some people think I should have stayed with that. [Laughter.]

However, you worked your way up through the academic world where you are now the nominee for, I think, one of the most prestigious positions in Government today. We commend you for this and for your broad and varied background, which includes some very hard work with your hands as well as your head.

Over the past several years Dr. Bennett has held a number of memberships on advisory boards and commissions concomitant with his full time employment. He has indicated that to avoid any possible conflict of interest, he intends to sever any relationship with any of those which may be associated with the humanities if he is confirmed by this committee and by the Senate.

Equally impressive is the list of over 40 articles or commentaries Dr. Bennett has authored during this same period. I sometimes wonder, when did you get any rest or when did you sleep? At this time I think we will place your prepared statement in the record but ask you to take whatever time you want to summarize it for us and to make any other comments you want to share with the committee.

STATEMENT OF DR. WILLIAM J. BENNETT, NOMINATED TO BE CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES

Dr. BENNETT. Thank you, Senator. I am grateful for the opportunity to appear before you this morning.

If you consent, this job before me, the chairmanship of the National Endowment for the Humanities, brings together two things about which I care very much. First, the Nation, this Republic, this country: It has given me many blessings and opportunities. Second, the humanities: I have spent most of my adult life in the study of, in teaching, and then in the administration of an institution that focuses upon that range of important disciplines we call the humanities.

In the legislation creating it, we learn that the National Endowment for the Humanities aims to advance scholarship, to increase public awareness of the importance of the humanities, and to further knowledge in the humanities. These are worthy aims and they should stimulate worthy actions.

All of government teaches by example and as part of government, so does the NEH. I would hope that the National Endowment for the Humanities would teach a respect and an affection for excellence and would be so associated in our citizens' minds. "Learned institutions," James Madison said, "ought to be the favorite objects of a free people." I hope we can be such.

To get there, we must make efforts so that our citizens may gain appreciation of our programs and of the excellence we reach for in them. We should do this proudly, and yet we should do it modestly. Modesty is called for in our education programs, our public, State, fellowship, and research programs because the National Endowment does not replace but only complements and fortifies the great resources of learning, knowledge, and ability already in the possession of the American people.

The budget of the National Endowment for the Humanities, at whatever figure, is only a tiny amount of the support needed to sustain vital activity in the humanities in the Nation but it is money—in the form of grants—that can make a difference. For example, NEH support can encourage a school or college to improve its teaching by providing, in rigorous workshops, an opportunity for faculty to learn from the achievements of others. NEH can bring to millions an appreciation of the ideas which are part of our legacy in a well-done television show.

NEH can help keep American scholarship the best in the world by providing support to scholars on the cutting edge of their disciplines; NEH can help sustain and strengthen libraries, museums, and historical collections—critical institutions in the preservation of culture; and, of course, through its State programs and the regrants made there by citizens in the States, NEH can provide the opportunity for our people to take a second and thoughtful look at books, at a community's ideals, at its history and its people.

The NEH has been, as you know, an object of scrutiny, and it deserves scrutiny both from the citizens of the United States and their appointed representatives. Hard questions are asked of us and they should be asked. For this agency that asking should begin at home. Because NEH exists to inspire imagination and critical inquiry in others, it must first possess these qualities itself.

Therefore, of each proposal and request for funds, we at the Endowment should ask: Is it in the humanities? Is it good? Is it sensible? Is it helpful? These are questions we should ask of and answers we must get from the thoughtful people in our many panel and council reviews and as well we must ask on all occasions, can we fairly put our hands in the pockets of taxpayers to pay for this?

The National Endowment for the Humanities is a public trust. As such, it ought to act as a public resource and a source of public pride. I shall do what I can—I promise I shall work very hard—to make the National Endowment for the Humanities worthy of public and congressional support and to make it the best agency it

can be. It should be nothing less than consistent with the high ideals expressed in the announcement of its birth 16 years ago.

That is it. Thank you for your time.

[The biographical sketch of Mr. Bennett follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

PART I: ALL THE INFORMATION IN THIS PART WILL BE MADE PUBLIC

Name: Bennett (LAST) William (FIRST) John (OTHER)

Position to which nominated: Chairman, National Endowment for the Humanities Date of nomination:

Date of birth: 31 (DAY) 7 (MONTH) 43 (YEAR) Place of birth: Brooklyn, New York

Marital status: single Full name of spouse:

Name and ages of children:

Education:

Institution	Dates attended	Degrees received	Dates of degrees
The Priory School Washington, D. C.	1957-58		
Gonzaga Catholic High School Washington, D. C.	1958-61		
Williams College Williamstown, Mass.	1961-65	B.A.	1965
University of Texas Austin, Texas	1965-67	Ph.D.	1970
Harvard Law School Cambridge, Mass.	1968-71	J.D.	1971

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Williams College Scholarship (partial tuition support): 1961-1965;

Graduate fellowships in philosophy; University of Texas: 1965-1967;

partial scholarship, Harvard Law School: 1968-1971.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations for the last five years and any other prior memberships or offices you consider relevant.

Organization	Office held (if any)	Dates
See attached Schedule I		

Employment record: List below all positions held since college, including the title or description of job, name of employer, location of work, and dates of inclusive employment.

Garbage collector, National Park Service, Yosemite Park, California, Summer 1961.
File clerk, Federal Housing Administration, Washington, D. C., Summer 63
Office Assistant/Messenger, Corcoran, Foley, Youngmen & Rowe (law firm), Washington, D. C., Summer 1964-65.
Waiter, Williams College, Williamstown, Massachusetts, September 1963-May 1965.
Instructor, Governors School, Winston-Salem, North Carolina, Summer 1966.
Teaching Assistant, University of Texas, Austin, Texas, September 1965-May 1967.
Teacher, University of Southern Mississippi, Hattiesburg, Mississippi, September 1967-May 1968.
Tutor and Resident Advisor, Harvard College, Cambridge, Massachusetts, September 1969-June 1971.
Assistant to the President and Teacher, Boston University, Boston, Massachusetts, September 1971-June 1975.
Teacher, University of Wisconsin, Madison, Wisconsin, January 1975-May 1975.
Assistant to the President, Boston University, Boston, Massachusetts, June 1975-March 1976.
Executive Director, National Humanities Center, Research Triangle Park, North Carolina, March 1976-June 1979.
President and Director, National Humanities Center, Research Triangle Park, North Carolina, June 1979 - present.

Schedule I

Name and Address of Organization	Type of Organization	Position Held	From	To
National Humanities Center	Educational	President/Director	6/79	Present
National Humanities Center	Educational	Executive Director	5/76	6/79
University of North Carolina at Chapel Hill	Educational	Adjunct Assoc. Prof.	9/79	Present
North Carolina State University	Educational	Adjunct Assoc. Prof.	8/77	Present
National Academy of Education	Educational	Panelist	10/80	Present
Southern Growth Policies Board	Regional Planning Comm.	Consultant	8/80	Present
The Committee for the Free World	Educational	Member, Board of Dir.	8/80	Present
National Research Council/Committee on Basic Research in the Behavioral and Social Sciences	Research	Member	3/80	Present
Columbia University Project on Ethics and Values in Health Care	Educational	Member, Advisory Comm.	9/79	Present
Institute for Educational Affairs	Educational Foundation	Member, Board of Dir.	6/78	Present
National Humanities Faculty	Educational	Faculty Member	1971	Present
		Member, Board of Trustees	1976	1979
Southern Educational Communications Association	Public Television	Member, Board of Advisors	5/78	5/79
North Carolina School of Science and Mathematics	Educational	Member, Board of Advisors	9/81	Present
Boston University, College of Liberal Arts	Educational	Member, Board of Visitors	9/81	Present
NRM 80, Ltd. (Natural Resource Management Corp.)	Gas Exploration Co.	Limited Partner	2/80	Present

Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments other than those listed above.

See attached Schedule I: National Research Council Panelist, National Endowment for the Humanities (January 1973-June 1977 - on six occasions to review proposals).

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

See attached Schedule II.

Political affiliations and activities: List all memberships and offices held in or financial contributions and services rendered to all political parties or election committees during the last five years.

Registered Democrat - North Carolina.

Schedule II

William J. Bennett
Publications

September 9, 1981	"Making a School System Work," in The Wall Street Journal. (This was reprinted in Education Week, Volume 1, Number 6, October 12, 1981.)
1980-81	Review essay of Legal Ethics and Legal Education (The Teaching of Ethics in Higher Education, Monograph No. II) by Michael J. Kelly in The Journal of College and University Law, Volume 7, Number 3-4.
December 1980	"Getting Ethics," in Commentary, Volume 70, Number 6.
Winter 1980	"Teaching the Young About Sex," in American Educator, Volume 4, Number 4. (This article was reprinted in The Education Digest, April 1981.)
1980	"The Teacher, the Curriculum, and Values Education Development," in New Directions for Higher Education, 31.
September 17, 1980	"The New Right Christians," editorial in The Wall Street Journal.
Fall 1980	"What Value is Values Education?" in American Educator, Volume 4, Number 3.
May 1980	Review essay of Utopian Thought in the Western World by Frank E. Manuel and Fritzie P. Manuel, in Commentary, Volume 69, Number 5.
January 7, 1980	"Simple Truths," in My Turn column, Newsweek magazine.
December 1979	Review essay of Restoring the American Dream by Robert I. Ringer, in Commentary, Volume 68, Number 6.
November 1979	Counting by Race: Equality From the Founding Fathers to Bakke and Weber, a book published by Basic Books, Inc.
July 1979	"Taking Rights Soberly," a book review of Right and Wrong by Charles Fried in the Stanford Law Review, Volume 31, Issue Six.
May 15, 1979	"The Foundations of the Brown Decision," guest editorial in The Greensboro Record, Greensboro, North Carolina.
February 1979	"Where the Values Movement Goes Wrong," in Change, Volume 11, Number 1.
Winter 1979	"Censorship for the Common Good: An Exchange," in The Public Interest, Number 54.
October 1978	Review essay of Lying by Sissela Bok, in Commentary, Volume 66, Number 4.
September 1978	"Why Bakke Won't End Reverse Discrimination," in Commentary, Volume 66, Number 3.
Fall 1978	"The Homosexual Teacher in the Public Schools," in American Educator, Volume 2, Number 3.

Fall 1978	Review essay of The Perpetual Dream: Reform and Experiment in the American College by Gerald Grant and David Riesman, in The Public Interest, Number 53.
July 25, 1978	"When Values are Substituted for Truth," in The Wall Street Journal.
Summer 1978	"Censorship for the Common Good," in The Public Interest, Number 52.
March 1978	"Ethics and the Legal Profession." The concluding chapter of the American Bar Association's volume, Professional Responsibility: A Guide for Attorneys, West Publishers, St. Paul, Minnesota.
March 1978	Review essay of One L by Scott Turow, in Commentary, Volume 65, Number 3.
February 9, 1978	"What Should The Public Know?" in The Charlotte Observer.
January 10, 1978	"Rights Thinking and Political Language," in The Wall Street Journal. (Reprinted as "When Rights Are Wrong," in Council for Basic Education's Bulletin, Volume 22, Number 8.)
Winter 1978	"Moral Education in the Schools," in The Public Interest, Number 50.
January 1978	Review essay of The Memoirs of Earl Warren by Chief Justice Earl Warren, in Commentary, Volume 65, Number 1.
October 1977	Review essay of A Rumor of War by Philip Caputo, in Commentary, Volume 64, Number 4.
September 25, 1977	"What's in a Game?" in The San Diego Union.
April 15, 1977	"Let's Bring Back Heroes," in My Turn column, Newsweek magazine. (Reprinted in Reader's Digest, December 1977.)
August 1977	Review essay of Taking Rights Seriously by Ronald Dworkin, in Commentary, Volume 64, Number 2.
May 1977	Review essay of The First Amendment and The Future of American Democracy, by Walter Berns, in Commentary, Volume 63, Number 5.
January 1977	Review essay of The Deadly Innocents: Portraits of Children Who Kill, by Muriel Gardiner, in Commentary, Volume 63, Number 1.
Fall 1976	"The Constitution and the Moral Order," the lead article in a symposium on ethics and constitutional law published in the Hastings Constitutional Law Quarterly, Volume 3, Number 4.
October 1976	Review essay of The Joy of Sports by Michael Novak, in Commentary, Volume 62, Number 4.
September 1976	Review essay of James D. O'Flaherty, Editor, Studies in Nietzsche and the Classical Tradition, (University of North Carolina Press) in the Wake Forest Review.

February 1976	"In Defense of Sports," Commentary, Volume 61, Number 2. [This article was reprinted in the Washington, D. C., Sunday Star on February 15, 1976, and was the focus for a thirty minute interview on the Tom Larson Show (WSDK-Channel 38, Boston, Massachusetts) on February 19, 1976.]
September 1975	"Reflections on Revolutionary Constitutionalism in the 18th Century America." A comment for the lead panel on "Constitutionalism" at the American Society for Political and Legal Philosophy 20th Annual Meeting, San Francisco, California (September 2-3, 1975), to be reprinted in Nomos, Volume X, Constitutionalism, in June, 1978.
December 1974	Review essay of Justice Under Fire, by Joseph W. Bishop, Jr., in Commentary, Volume 58, Number 6.
September 1974	Why Judge? A Conversation about Jurisprudence with William J. Bennett, Chandler and Sharp Publishers, Corte Madera, California.
August 1974	Review essay of Alive: The Story of the Andes Survivors, by Piers Paul Read, in Commentary, Volume 58, Number 2.
Spring 1974	"A Comment on Richard Bernstein's Praxis and Action," a review in the Author-Reviewer Symposia of Philosophy Forum.
May 1973	"The Terrifying Remedy: A response to V. N. Chaldize's The Right of a Convicted Citizen to Leave His Country," in the Harvard Civil Rights-Civil Liberties Law Review, Volume III, Number 3.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes

2. State whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No

3. Has a commitment been made to you for employment after you leave Federal service?

No

4. Do you intend to serve the full term for which you have been appointed or until the next Presidential election, whichever is applicable?

Yes

Potential conflicts of interest:

1. Describe any financial arrangements, deferred compensation agreements or other continuing financial, business or professional dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Upon termination of my employment with the National Humanities Center, all allowances and contributions to insurance and retirement plans would cease. I would, however, retain ownership of retirement annuities issued by TIAA-CREF and payable as benefits upon retirement.

2. List any investments, obligations, liabilities, or other financial relationships which constitute potential conflcts of interest with the position to which you have been nominated.

The only investment outside of a certificate of deposit at a local bank is my limited partnership in a gas and mineral development company--Natural Resource Management; but I know of no reason there would be any conflict of interest.

3. Describe any business relationship, dealing or financial transaction which you have had during the last five years whether for yourself, on behalf of a client, or acting as an agent, that constitutes a potential conflict of interest with the position to which you have been nominated.

The National Humanities Center as an institute for advanced study in the humanities has received grants from the National Endowment for the Humanities in support of its programs but I will sever all ties with the Center if I become Chairman of the National Endowment for the Humanities. In the event that a proposal from the National Humanities Center is submitted to the National Endowment for the Humanities I shall not take any part in deliberations or recommendations about it. I am also an adjunct (see attached continuation)

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any Federal legislation or of affecting the administration and execution of Federal law or policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

See Item 3 above.

(continuation of Item 3)

associate professor at North Carolina State University and the University of North Carolina at Chapel Hill and I have in the last five years lectured at a large number of institutions that receive grants from the National Endowment for the Humanities. I do not see these as problems or conflicts.

The CHAIRMAN. Thank you, Dr. Bennett.

Other members of this committee who are unable to be here because of Senate business may want to submit questions to you in writing. We will encourage them to do that immediately. We would appreciate your responding to those questions for the record as quickly as possible.

Dr. BENNETT. Certainly.

The CHAIRMAN. Senator Stafford is chairing a markup at his Environmental and Public Works Committee on the Clean Air Act. He sends his regrets that he may not be able to break away to be present for this confirmation hearing. We will put his statement in the record and submit whatever questions he has to you.

Dr. BENNETT. Thank you.

The CHAIRMAN. Before turning to Senator East or any other members of the committee who may come, let me just ask you a couple of questions.

It is my understanding that six or seven professors from the University of Southern California have been working—under a grant from the Endowment—with a vocational high school in Los Angeles, exposing the students to subjects ranging from Greek mythology to black literature. Before the project is completed, perhaps as many as 10 or 12 professors will be involved at a cost to the Federal Government of $35,000.

How do we know that projects like this one, aimed at getting youngsters to set their sights on college rather than other options, will not further damage the already poor image of vocational education?

Dr. BENNETT. Senator, I am not familiar with that grant but the issues raised by it are, I think, important and serious. I would like to think that the humanities are not in contrast or in opposition to vocational education but a part of any sound educational practice. We do not have to oppose learning how to do things for a vocation while we are making the case for the humanities. Both kinds of education are important.

The CHAIRMAN. I see. How will the Endowment decide that the taxpayers are getting their money's worth from such activities or projects?

Dr. BENNETT. Well, in general, I think by examining the public record, by looking at the vitality of the enterprise, by looking at the state of teaching in our schools, by seeing if American scholarship does remain the best. One test of that, I think, is to see how many people from other countries continue to want to come to the United States, not just to live here but to study here at our institutions.

I would think that we need to look at the scores of students coming out of high school. The National Endowment for the Humanities of course cannot do the whole share of that load but I think we can play some part in the war against illiteracy.

The CHAIRMAN. Not everybody immediately understands that the humanities are also a national resource, it seems to me, for our country. What is their continuing importance to the people of this country?

Dr. BENNETT. Simply put, Senator, I think it makes a difference, for example, what people read. It makes a difference to the kind of

life we have in this country, the kind of communities we have. We are able to read everything in this country; we are able to discuss every issue. That is not the situation in other countries.

The humanities as a national resource I think can be best exemplified and embodied simply by recalling in the person of James Madison. Madison pursued a curriculum in the humanities when he went to college. After studying the humanities, he went out and wrote a constitution, the Constitution we live under. The Constitution that he wrote and others wrote with him was informed by the study of the humanities. I cannot think of any better example of the connection between the humanities and national life.

The CHAIRMAN. Many reports talk about the decline of our educational standards, including the decline and deficiencies in humanities education. Do you have any thoughts about the NEH's proper role in helping to improve this situation?

Dr. BENNETT. Again, Senator, as you know it is a small agency. We cannot replace or take the place of the local bodies, educational bodies in the States and localities. However, I think the NEH can send a signal. The NEH, in giving a grant to an institution that is making very strong efforts to improve the education of students, to raise their literacy, to give them some appreciation of their heritage, can in giving an award or giving a grant, teach by example, suggest that this is what others should do as well. Therefore, I think again most of what we do is to fortify, complement, and exemplify but that can make a difference because we do have an opportunity to be a good teacher.

The CHAIRMAN. The January 27, 1982, issue of the Chronicle of Higher Education carried a report of what was apparently a departing interview with the former Chairman of the Endowment, Mr. Joseph Duffey. I assume you are familiar with the comments attributed to Mr. Duffey in that report?

Dr. BENNETT. I am.

The CHAIRMAN. What struck me somewhat was the defense Mr. Duffey gave to the internal review process and the peer review process as a mechanism for achieving objectivity in grant awards. What are your views on the peer review process as a means of eliminating political interference or favoritism in making grant awards?

Dr. BENNETT. Well, I agree with the recommendations made by the President's task force, that the peer and panel reviews as they stand at present are sound and should be continued. It is very important that we get a range of views and a range of opinions on each grant proposal and look for congruence among those opinions about those projects that the reviewers think are of quality.

The CHAIRMAN. In a similar vein, the Endowment has a National Board of Consultants which is an NEH register of what the Endowment considers to be outstanding project reviewers. Now there are some who feel that while the consultant grant awards are not very large, nevertheless this Board of Consultants is sort of a revolving door with one being able to sort of glide back and forth between recipient and consultant quite easily.

How much credibility do you think there is in such criticism of a program where the grant awards ranged from about $3,500 to just under $10,000 in the over 100 grants made in 1981?

Dr. BENNETT. Well, I think that depends upon how reliable that process is. I think it depends upon the scrutiny we bring to it and what we determine about the members and the people involved in that process. There is no substitute for integrity, and I think we would want to assure ourselves that the people involved in all parts of that process are people of intellectual integrity who cannot be easily corrupted.

The CHAIRMAN. I cannot help but wonder just how much real impact for change there is in a consultant grant of $3,474 to a university of over 17,000, which has as its purpose helping "design cohesive programs for intercultural awareness and understanding through the general studies program as well as through area individual studies programs." That is a quote from Ball State University in Muncie, Ind.

Would you care to comment on my observation with regard to this?

Dr. BENNETT. Just two points: First, I have seen my first list of consultant grants yesterday and so I need more time to think about it and look at it, to see what kind of evidence we have that they are effective. However, I know from my own experience that small grants can be as effective as large grants if they start a kind of ripple effect in a college or institution. This has happened more than once in colleges and universities. A department can decide to set itself on the road to excellence, and this can be the cause and stimulation of excellence elsewhere in the university.

The CHAIRMAN. OK. Thank you.

Dr. BENNETT. Thank you, Senator.

The CHAIRMAN. We will turn to Senator East, a good member of our committee. Senator, do you have any questions or comments?

OPENING STATEMENT OF SENATOR EAST

Senator EAST. Thank you, Senator Hatch.

I, of course, am very pleased to be here this morning, to be a part of the proceedings here dealing with the confirmation of Dr. Bennett, who is currently a very distinguished resident of my State, the State of North Carolina. Senator Helms, and I am speaking on behalf of him at this point, has asked me to extend his regrets that he cannot be here because he is in a Senate Foreign Relations Committee meeting. However, we both welcome you and congratulate you on your nomination.

Dr. BENNETT. Thank you.

Senator EAST. You reflect great credit upon yourself and upon the State of North Carolina by having gotten that.

Dr. BENNETT. Thank you, sir.

Senator EAST. I would just like to inquire briefly, before I get into several points of substance, are any members of your family here this morning? If so, we would like to recognize them.

Dr. BENNETT. Yes, sir, my brother, Robert Bennett and his wife, Ellen Bennett.

Senator EAST. Would you both please stand up? We appreciate your coming. It is nice to have you here this morning. Thank you.

The CHAIRMAN. I am glad you asked them to do that.

Senator EAST. Well, I thought they might be and they look alike [laughter].

So I thought we had some moral support here in case things got too heavy.

As I was suggesting, Senator Hatch, we in North Carolina are very proud of Dr. Bennett. He has outstanding credentials. He has an outstanding background. I am sure it is common knowledge to those who have followed this nominating process with any care, that my first choice had been another man that I felt had great competence and ability in this field, also.

However, I would like to remind those who have followed it with care that at no time in this rather long process did I or Senator Helms—and I am certainly speaking for myself at this point, in terms of the substance at question, Senator Helms certainly sends his greetings and support—I was never for a moment suggesting Dr. Bennett was not eminently qualified and a person of great competence, great credentials, and great integrity for this job. It was a case, if you will, of reasonable minds differing over a specific individual.

The choice has been made. He is the choice of the President of the United States, which always is helpful in this business. We do welcome him; we do congratulate him. As far as his credentials, his background, his potential contribution, I think it is extensive and it is enormous.

As Senator Hatch has noted, the National Endowment for the Humanities—though it has a little lower profile than some of our other more emotional matters around here—is, as Senator Hatch suggested, a matter of great importance to a very important segment of American life, the academic segment. The contribution that Dr. Bennett and the National Endowment can make is enormous and considerable. Those who are interested in the academic community know whereof I speak. I will not belabor the obvious.

Several brief concerns I would like to express, Dr. Bennett, and then just get your reaction to them: First, let me say I have had the pleasure, and so has Senator Helms, of talking with Dr. Bennett on various occasions. I know other members of the committee have perhaps done that also and certainly are at liberty to do so, and have found those sessions very helpful, constructive, and reassuring.

The problems I think we face with the National Endowment for the Humanities—and the Labor Committee, which I have the pleasure of serving on, of course is vitally interested in the National Endowment because it comes under our jurisdiction—first, of course, you have the general problem of the Government really sponsoring this kind of thing. There are many people across the political spectrum who query whether the Government really ought to be funding the humanities, simply because the risk of politicizing it is so great.

Now with all due respect to your predecessor, Mr. Joe Duffey, Mr. Duffey had been chairman of the Americans for Democratic Action, a very noted political activist in the United States. I think you come with a record that has emphasized endowment work and has emphasized the academic community. The President is not nominating someone who is primarily known as a political activist.

I think it is a bad symbol, even though the intentions may be very good, because it immediately suggests a politicizing of the National Endowment for the Humanities which I think would be the worst possible thing that could happen in terms of balanced, genuine scholarship in the United States.

What I think we need to emphasize—and let me finish my statement and let you comment upon any strengths or weaknesses you see in this—I think first I operate on the assumption that if the general outlook or philosophy—and by that I do not mean some philosophy of ideological purity—but if the general philosophical outlook on academic work is sound, I think the details will take care of themselves and no one need to worry about it.

First it seems to me in the Endowment that the main obligation you have as I see it—as one Senator and indeed one freshman Senator—is that there is going to have to be a very careful scrutiny of the expenditures of the National Endowment. I think a sense of fiscal responsibility and integrity is more imperative today than it ever has been, one, because of great budgetary restraints that we now face already, and the point I have already raised that some might question, in a period of budgetary restraints, whether the Federal Government ought to be spending money on humanities projects, that these ought to not enjoy such a high priority as other matters might, and they might be better funded from private philanthropy which would eliminate the potential for politicizing and above all using Federal tax dollars to do so.

Now, therefore, there is going to be a very keen interest in how efficiently the National Endowment is operated as a matter of strict budgetary practice and management. I do not think there is any doubt about that. I know there will be a great deal of interest, which I think will be incumbent upon you to try to assure to doubting Thomases across the political landscape that there is balance, proportion, and integrity reflected in your counsel and reflected in the grants that are given and that they are not heavily politicized as frankly some feel they tended to be in the past with I think not a good symbol as its chairman, a man primarily known for liberal left political activism, not a good symbol any more than if we tried to repeat it in a somewhat changed political atmosphere.

The balance and the proportion, making some effort to try to find that good, solid, balanced academic middle ground, if you will, I think is imperative in the operation of this. If not, you will encounter enormous difficulty, so will this committee, and I think the President will and all others. It is a political institution, unfortunately, in the sense that it is in the public arena, and it cannot avoid that kind of close scrutiny. It will not enjoy the luxury that private philanthropy or private foundations have, in that they can support and fund what they choose to support and fund.

Therefore, I would hope and trust that you would strive as hard as you can with your considerable managerial skill and experience to see that that balance is reflected and that we can avoid the charges of strictly a politicized National Endowment supporting solely and exclusively certain political causes, goals, and ends.

Finally, there are several things here that I would like to stress, Dr. Bennett—publicly, for the record—and then I would appreciate hearing your reaction. One problem we have in higher education—

today that I hope you could give careful consideration to, aside from the matters I have mentioned, is the role of the small liberal arts college in higher education today.

This question of grants from foundations, be they public like this one or private—the Rockefeller Foundation, the Ford Foundation—has become big politics on the campus. It has gotten so big that anyone who comes from that background which I did before coming here, your large institutions, public or private, would have offices dealing strictly with grantsmanship, a full-time employee or more, who simply become experts on grant application and on the politics of grantsmanship.

Whom does that prejudice? It prejudices enormously the small liberal arts college and university and their faculty. They do not have the resources to do that. They may not be a part of the infrastructure that builds up here among those who live and move and have their world in the field of grants, public or private.

I would hope, and I think there is a particular responsibility because this is a publicly funded foundation, that there be a very genuine sensitivity to the problem of the small liberal arts college, the independent private schools and their faculty which may not enjoy quite the privileged position of breaking into this.

As you well know, for a professor or a college to get a grant from the National Endowment for the Humanities is a very big plus on his credential sheet. When it is confined to institutions that have the wherewithal to go in, to campaign for it, to work for it, to be a part of the buddy system—which can exist, regrettably, I think—that is unfortunate.

I think there is a particular obligation here to reach out and see if we cannot make the small liberal arts colleges and their faculties—encourage them to participate, that they can feel they are competitors, that if the projects they submit are of academic integrity and quality, they will be fairly considered, and again attempt to perhaps achieve some sort of proportion and balance in this area.

Therefore, these are matters, Dr. Bennett and Senator Hatch, that are of particular concern to me and I did want to take this opportunity to express them. Dr. Bennett, I would appreciate your response thereto, to any of these items.

I have stressed this matter of being cost-efficient so that we can escape the charge we are squandering the money; second, the matter of balance on the board as well as in the awards; and, third, this question of trying to involve the small liberal arts colleges in this matter of grantsmanship.

Dr. BENNETT. All right. I thank you, Senator. I agree with your concerns.

To respond very briefly but I hope to the point, in the matter of expenditures there is an even greater burden of proof on us at the National Endowment than there has been before. There is a burden on all Federal agencies. Academic individuals, professors, and academic institutions are part of this country.

This country has decided that there should be smaller Government expenditures. We cannot, I think, in fairness ask others to take cuts and not make a cut ourselves, so I think there is a greater burden on us to be fiscally responsible and therefore there will

be a greater burden in all our review and application process and on the people who apply, that they submit to us things which truly are worthy of support.

In terms of your point about balance and integrity, I couldn't agree more. A National Endowment for the Humanities that cannot achieve that kind of intellectual integrity should not exist. All I would ask is that when one evaluates the National Endowment, one look at it in the totality of its acts. An individual grant here, an individual grant there which may look odd to someone, maybe in the totality will be fine, will be acceptable.

I think we have to make sure—and this is really on the second point as well as the third point, I think, on small colleges—that we make an effort to reach out to everyone who has the quality, who has the goods, who has the qualifications for a grant. In one of our programs, in the fellowships division, I understand that we have responded to this situation you describe about the small college by having separate competitions for people from small colleges as opposed to people from larger universities.

Of course, the general point is the one that is most important: We should always respond not to pressure from Washington offices of major institutions; we should respond to quality, and quality is pretty broadly distributed around this country. I am a graduate of a small college myself. I have a kind of inclination toward them. I can assure you that they will not be neglected and passed by if I am Chairman of the National Endowment.

Senator EAST. Thank you, Dr. Bennett.

The CHAIRMAN. Thank you, Senator East.

Senator Stafford?

OPENING STATEMENT OF SENATOR STAFFORD

Senator STAFFORD. Thank you very much, Mr. Chairman.

Dr. Bennett, I regret that since I chair another committee, I wasn't able to be here in time to hear your opening statement but I did hear Senator East's statement and your responses to it.

As the chairman of the subcommittee which has jurisdiction over the legislation authorizing the National Endowment for the Humanities, I am pleased that we have before us today a gentleman I consider to be a distinguished and capable nominee. Dr. Bennett's record as a scholar, and his standing in the academic community which represents such a large part of the humanities make him a most apt choice to chair the endowment, and I applaud the President for his wisdom in making that choice. Dr. Bennett's demonstrated capacity for leadership at the National Humanities Center, one of our Nation's most important institutions of research and learning, will serve him well as he undertakes the administration of the endowment.

Although the funds provided by the National Endowment for the Humanities represent only a small part of the total spectrum of support for the humanities in our Nation, they are nevertheless critically important in catalyzing support from the private sector, in strengthening the humanities in our institutions of higher education, and in extending the breadth and scope of the humanities beyond the occasionally rarified realm of academia.

Moreover, a strong endowment signifies that there is a national interest in preserving and extending our national heritage and in promoting a broad understanding of our society, who as Americans we are, how we got there, and how we relate to other peoples of the world. Therefore, I am especially pleased that Congress saw fit in the budget reconciliation and appropriations processes to endorse a strong and continued Federal role in support of the humanities in our Nation.

I know that the President's designation of Dr. Bennett bodes well for the future of this Federal role, and I look forward to a close association with you, Dr. Bennett, during your tenure as chairman.

Let me now go to a few questions: The administration's original budget submission last year suggested that Federal policy in the arts and humanities "must be revamped to place more emphasis on the role of private philanthropy and State and local support." Let me ask you first, does this represent your view of the endowment's role, and second, how would you propose to increase private, State, and local support in the humanities?

Dr. BENNETT. Yes, it does, Senator. I come from an institution, a private institution as you pointed out, and one of my responsibilities at that institution was fundraising for an institution in the humanities. I hope the people whom I worked with at that time will not forget me now that I am Chairman of the National Endowment for the Humanities, and that I can continue the conversation with them about the importance of private support for the humanities.

What we do, as I said in my statement, is only a very small fraction in terms of financial support for what is needed to support a vital enterprise in teaching and learning the humanities. Therefore, I in fact later this week will be meeting with several foundation officials in New York to talk about what they are doing and what we are doing.

Senator STAFFORD. Thank you. Increased funding for the National Endowment over the past decade has in part resulted in an expansion of the types of activities which have come to be considered as part of the humanities. Do you believe that this broadening of the humanities has been appropriate?

Dr. BENNETT. That it has been appropriate?

Senator STAFFORD. Yes.

Dr. BENNETT. Yes, Senator, I believe I do. When you look at the divisions of the National Endowment for the Humanities, it seems to me they represent a range not only of activities but of audiences for the humanities, which seems to me appropriate.

Senator STAFFORD. How would you define the numanities and the appropriate province of the endowment?

Dr. BENNETT. Well, I will take the definition that Congress has given, if you don't mind, Senator.

Senator STAFFORD. That is a pretty good one and it is a pretty good answer.

[Laughter.]

Dr. BENNETT. It is that list of disciplines. I think you are familiar with it. I am sorry, the second part of the question?

Senator STAFFORD. The appropriate province of the endowment.

Dr. BENNETT. Well, again, the endowment is a small part in terms of finances but can be a very important part. As Senator East was saying and Senator Hatch was saying, in the giving of awards from NEH we signal our affirmation of the value of a particular project. In so doing, we need to be very careful and thoughtful about that signal and only send it when we want it duplicated elsewhere.

Senator STAFFORD. Are there any current functions in the endowment that you feel, even this early, might be inappropriate?

Dr. BENNETT. Well, I have just got my bags in the office. I have only been there a few days, a couple of weeks, and I am looking over the entire range of programs. I need to take a further look at that.

Senator STAFFORD. I am not surprised by that answer.

How would you propose to maintain the neutrality of the endowment's activities in the face of changing intellectual fashions and ideologies?

Dr. BENNETT. Well, there are of course changing intellectual fashions and ideologies in academic life but one of the interesting features of academic life is that there is almost always somebody else on the other side. I think the way we do it at the endowment is to make sure we have panels which, in Senator East's phrase, are balanced so that we can have the exchange and the model of the marketplace of ideas.

Senator STAFFORD. Thank you very much, Dr. Bennett. One final question, and that is, would you be prepared to appear willingly in front of any committee of the Senate that asked you to appear as a witness?

Dr. BENNETT. Yes, of course.

Senator STAFFORD. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Stafford.

Thank you, Dr. Bennett. We are really proud of your nomination. I think it is a good bipartisan nomination. I commend the President for it, and we support you very strongly. We will try to get this through and confirmed as soon as we can.

Dr. BENNETT. Thank you. Senator Hatch.

The CHAIRMAN. Excuse me, Senator Pell. I apologize to you. We will turn to Senator Pell and then I will make some more remarks.

OPENING STATEMENT OF SENATOR PELL

Senator PELL. Thank you very much, Mr. Chairman.

Dr. Bennett and I had a good conversation a few days ago, and I am looking forward to favorably reporting his nomination but I do have a few questions.

First, over the last 15 years the American public has developed a deeper appreciation of the humanities, and I think a lot of this progress is due to the NEH. I was wondering how you intend to continue this work, particularly in connection with the Division of Public Programs?

Dr. BENNETT. Well, where things have been good they should be continued. We had a meeting recently, I have had several meetings, in fact, with the people, the staff members in the Division of

Public Programs, and I think we want to continue to make efforts to make sure that the work of that division gets out to a broad audience and continues on this good track.

One thing that we are considering now already, indeed proposals have already come in—and I think we will want to discuss this further—is using the resources and know-how of that division to think about the proper celebration, from the point of view of the National Endowment, of the commemoration of the American Constitution, the 200th anniversary of that Constitution. It is an event in which all Americans should have interest and pride, and I think we can take some kind of positive leadership role in thinking about that. That is just one example, Senator.

Senator PELL. One of the points that has always bothered me, and I know that we touched on it in our personal conversations, is that when one goes across our land one often finds that the work and people connected with the State Arts Councils are much better known to more people than the work and people connected with the State-based humanities committees.

I think this is a great pity and as you know, my own belief is that this is due to the different legislative background of the State-based arts and humanities programs. As you know, in the arts case the money is turned over automatically to the councils which are appointed by the Governor. The political process is very much a part of the process with the Arts Councils.

Some of the appointments are dreadful but in general over the years the quality of these Arts Councils has improved. The humanities committees, on the other hand, have often isolated themselves, a little bit in an ivory tower, not wanting to be exposed to the political process—but which would help them get their message out.

I am curious to know how you feel about my thought for more similarity between these structures, the method for appointing these members should, in my mind, be done along the same guidelines.

Dr. BENNETT. I remember our conversation well, Senator, and your point. I have met with the staff of State programs at NEH and we have talked about it, and I have asked them to prepare a response to me on this question, their recommendations about it. I also want to meet with Chairman Hodsoll, I will be meeting with Chairman Hodsoll very soon.

Senator PELL. If you will forgive me, to talk with them will not give you the most objective view because committee members would be upset about losing their jobs if they had to be appointed by the Governor rather than being appointed by their dear friend, Professor so-and-so, who happens to be chairman of——

Dr. BENNETT. This is the NEH staff that I am talking about, and indeed——

Senator PELL. Well, they also will have a subjective view because to be able to pull the strings from Washington is always more enjoyable than delegating it to the field. This administration, which has talked a great deal about delegating more to the States, should be very receptive to my thoughts on this point.

Dr. BENNETT. Well, again, as I said I do want to look at it very seriously. I want to talk to Frank Hodsoll. I remember your pointing out to me the effective way that the State arts councils have

run, and I told Chairman Hodsoll I wanted to have a talk with him about that and get his reading on it. Then we will no doubt want to talk to you further. I just want to get all the facts and all the arguments on all sides of this before I——

Senator PELL. I think in doing that you ought to look into the background of it, by talking to Senator Javits who was one who helped us set it up originally, as well as Roger Stevens and others.

As you know Chairman Hodsoll has held up some of the grants that were approved by his Council so that he could better examine them. Are you holding up any grants that were approved by your Council?

Dr. BENNETT. Yes, I am, Senator. I have asked the staff, the Deputy Chairman and other members of the staff, to review grants made at the last Council which are not yet signed by the Chairman, and I have a number of grants which I want to look through, to satisfy myself about, before I sign them.

Senator PELL. In connection with your own philosophy regarding grants, do you agree that these are not to be made to help people get Ph. D.'s? These are either made to post-Ph. D. people or to people completely outside of the intellectual stream?

Dr. BENNETT. Yes. I don't think the Endowment—as I understand what our policy has been and what I have read—I do not think the Endowment should at this point in time, particularly with the declining budget, get involved in offering graduate fellowships. There is a new program that the Mellon Foundation is offering, a very large program for just this purpose.

Senator PELL. Also, I would hope you will keep an open mind when a group comes in who seem to have no professional credentials but yet have an intellectual interest, a broad interest, and could conceivably make a contribution to the general body of knowledge. Not all knowledge is restricted to the Ph. D.'s.

Dr. BENNETT. We are interested in quality, Senator, not titles, and quality is in pretty broad possession in the American people.

Senator PELL. Do you see a heightened role for the Federal Council on the Arts and Humanities as having any effect on your role as Chairman of your National Council?

Dr. BENNETT. I don't think so. I have read the proposal for it, of course, recommended by the President's task force. As a member of this administration I will, of course, support that. I understand for a number of the functions which the Presidential Council might have, this will require new legislation so that the Congress will have an opportunity to discuss it.

I see as I read it no problems in terms of interference with our work at NEH or the work of the National Council on the Humanities. I would welcome the involvement of more individuals from the private sector so that we can continue to talk about the best ways to fund the humanities.

Senator PELL. Thank you.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Bill, we will get this up as soon as we can, and I have no doubt you will be confirmed. We are very happy to have had you and the other nominees with us this morning.

Dr. BENNETT. Thank you very much, Senator.

[The questions for Mr. Bennett with responses and additional material supplied follow:]

NATIONAL ENDOWMENT FOR THE HUMANITIES

WASHINGTON, D.C. 20506

Answers of William J. Bennett
to
questions of Senator Edward M. Kennedy

Confirmation hearings
on the nomination of Dr. Bennett
to be
Chairman of the National Endowment for the Humanities

Hearings: February 2, 1982

Answers provided: February 3, 1982

EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate

WASHINGTON, D.C. 20510

February 2, 1982

Mr. William J. Bennett
Chairman
National Endowment for the Humanities
806 Fifteenth Street, NW
Washington, D.C. 20506

Dear Mr. Bennett:

You have taken over the helm of the National Endowment for the Humanities as the Endowment enters its seventeenth year and following the capable stewardship of Joe Duffey. I wish Joe the best of luck at his new post at the Brookings Institute and commend his example to you.

President Kennedy said, "For the individual, the doors to the schoolhouse, to the library and to the college lead to the richest treasures of our open society: to the power of knowledge -- to the training and skills necessary for productive employment -- to the wisdom, the ideals and the culture which enrich life -- and to the creative self-disciplined understanding of society needed for good citizenship in today's changing and challenging world."

I share his views regarding the importance of the humanities in our lives, and look forward to working with you in the months ahead. I would appreciate your answers to the following questions as part of the Committee confirmation proceedings.

With best wishes,

Sincerely,

Ted Kennedy

Edward M. Kennedy

Questions of Senator Edward M. Kennedy

1) Because of your extensive background in the humanities field, integrated in many ways with the Humanities Endowment, I would ask your personal assurances that you will sever all associations with those organizations with which you have been involved which may present a possible conflict of interest, pursuant to applicable laws and regulations. I understand that it is your intent to withdraw from matters which relate to the administration of Endowment grants with which you were previously involved as well as from the application for future grants by institutions with which you worked, and I ask your assurances for the Committee record.

Answer No. 1

The "divestiture" actions requested by you seem to me essential for the Endowment's integrity and my own. Therefore I can assure the committee that I will sever my association with all those organizations with which I have been involved which could present a conflict of interest with my duties as Chairman of the Endowment.

I will also withdraw from matters relating to both current NEH grants with which I have been associated and applications for new grants by the institution in which I have been employed during the last five years. I shall also bring my previous association with these activities to the attention of the National Council on the Humanities, when it reviews requests for supplemental or new funding for these, in order to help guard against the appearance of a conflict as well as any substantive conflict of interest.

2) The new budget figures estimate that a 1983 funding level for the National Endowment for the Humanities will be approximately $96 million. This figure is nearly thirty (30) percent below the amount appropriated for the Endowment in 1982. If one were to support a policy of continued severe budgetary reductions, then the Endowment would soon be out of business. Because I feel strongly about the need to maintain a strong Endowment to support a national program for scholarship and the humanities, I would like to know what funding levels you consider adequate for the Humanities Endowment. What changes do you foresee in the Endowment grant-making ability as a result of these reductions in the budget? Do you intend to do all that you can to preserve the various program grants as well as the highly regarded challenge grant program?

See attached answer No. 2

3) Having begun your term as Chairman of the National Endowment for the Humanities pursuant to a "recess appointment," you have already become an active part of the Endowment. Your Chairmanship will complement your perceptions of the Endowment which you gained as a review panel member and as a grantee, and will enable you to influence policy that will affect future peanl members and grantees. In this regard, I would like to know what changes you foresee for the Endowment under your leadership?

See attached answer No. 3

Answer No. 2

I come to the NEH Chairmanship with no set view about the most appropriate budget level for the agency, and one of my first steps has been to begin reviewing each and every grant program--its purposes, its relation to the most important needs of humanities scholars and institutions, the effectiveness of its current grants, and the quality of applications submitted for the program's support. I anticipate that this review will take a good part of this year. Until I have gone through this process I do not feel I can make, or give to the Congress, an informed judgment of what an effective budget level is.

I should also add that whatever judgment I might arrive at, must, at least in part, consider the general state of the Federal budget and the nation's economy. Improvements in the nation's economy--specifically, reducing the rate of inflation, which hits our educational and cultural institutions at least as hard as other sectors--will be of obvious benefit to the humanities nationwide. I therefore would not argue that the Endowment's budget should be immune from the generally recognized need to reduce government expenditures.

While I can not now provide you with any specific figures about what would constitute adequate levels of funding for the future, I would make the following comments about certain specific parts of your question:

1. The broad mission of the agency requires, I believe, a variety of program grants, and I would therefore expect that the broad areas now receiving support would continue to do so. This is the intention of the Endowment's FY 1983 budget, which will be forwarded to the Congress next week.

2. An objective of President Reagan, and one I share, is to try to increase private sector support of the humanities, and Challenge Grants

specifically are an important component in our plans since these can be very effective means of generating non-Federal support. The 1983 request therefore calls for a funding level for the Challenge Grant program which will enable the Endowment not only to honor all its current commitments but also to make new awards.

3. Finally, I should note that I would not have accepted the NEH Chairmanship in order to preside over its demise. The President's Task Force on the Arts and the Humanities unanimously recommended continuation of the basic mission and structure of NEH, and the President has also strongly endorsed this.

Answer No. 3

As indicated in my response to the previous question, I have no pre-conceived agenda for reform (although I do feel that there are certain areas of the humanities--for example, humanities education in the schools--which need special attention not just by the Endowment but also by others who set policy or provide financial support). My agenda for change in addition to those general aims described in my Statement before the Committee, will be formulated as the review I am now undertaking reveals the need for change and as I receive the advice and recommendations from the humanities field, from the Congress as it considers our budget requests and exercises its oversight function as well as from NEH staff and the National Council.

4) As with your sister Arts Endowment, I strongly believe that quality, diversity and access are essential to the success of the Humanities Endowment. The Humanities in America, the report of the Commission on the Humanities, states that through the humanities -- "we learn how individuals or societies define the moral life and try to attain it, attempt to reconcile freedom and the responsibilities of citizenship, and express themselves artistically." Perceptions of morality, freedom, citizenship and the arts are different things to different people. Because of these differences and because the Endowment is a small body serving a vast and varied constituency, I would like to know what programs you intend to maintain and/or initiate to insure that the Endowment reaches minority groups. Similarly, do you intend to pursue programs that serve the various states and that encourage participation by young people? Do you feel that the Endowment should in its grantmaking policy embrace a wide and comprehensive ideology, or, do you feel that the Endowment should support only the traditional thinking and established scholars?

See attached answer No. 4

Answer No. 4

I am firmly committed to administering the Humanities Endowment so that it supports only work of the highest quality, is open to a wide diversity of people and ideas, and is equally accessible to all whose work will make valuable contributions to teaching and learning in the humanities.

Because I could begin an indepth examination of NEH programs only recently, I can not state what specific programs we should definitely continue or phase out. Given the diversity of this country, which is reflected in the wide range of both our intellectual heritage and contemporary scholarship, and in order to be faithful to its legislation, the Endowment must and will embrace a diversity in the kinds of persons who serve as staff and panelists and in the kinds of projects the agency aids.

The new, like the traditional, is not necessarily good or bad. My main objective will be to support applications which make a convincing case that they will result in excellent scholarship, exemplary education, or well-grounded programs directed at the general public, and that they are in the humanities. I hope this, and the other Congressional committees with responsibility for the Endowment, will call me to task should my grant decisions not reflect these goals.

5) Although a full discussion of legislation to amend the authorizing legislation for the Arts and Humanities Endowment and to change the existing Federal Council structure will take place at a later date, I would like to know your views regarding the role that such a new Council should assume.

For example, whom do you feel should represent the federal government on this panel? And what type of individuals should be selected from the private sector? How would you recommend that a membership should be constructed to ensure a balance of diversity and excellence in the various disciplines that this panel will serve? Do you feel that Senate advice and consent would be appropriate for individuals who are selected to serve on the Council?

It is essential that any new panel that is created, or any old panel that is revitalized, should be independent of the policy and grant making decisions of the National Council. To the greatest extend possible, the Endowment should be insulated from political influence. What measures do you feel can be taken to accomplish this goal?

See attached answer No. 5

Answer No. 5

The Presidential Task Force on the Arts and the Humanities recommended a revitalization and reconstitution of the Federal Council on the Arts and the Humanities (FCAH) in order for it to undertake important tasks of research, coordination, and promotion of greater non-Federal support for cultural activities. The Administration has been seriously examining these recommendations, and until this examination is complete, it would be premature for me to suggest what specific parts of the existing FCAH structure should be changed. Based on discussions in which I have participated however I believe that there is general agreement on a number of points:

--To be an effective coordinating body for this area, the Council must obviously include those agencies which either have lead responsibility in the arts and humanities (e.g., NEH, NEA, IMS), conduct significant programming, and/or can provide information essential to the President's and Congress' having an informed overview of Federal support and its relation to non-Federal support of the arts and humanities.

--Like the Federal members of the Council, private members ought to include persons who have knowledge or experience about the subject areas as well as in fund-raising, and who can ask critical questions of the Federal people.

--The need for each Endowment's Chairman and National Council to be independent of political influence is universally agreed to within the Administration, and I am sure that any changes which will be proposed regarding the Federal Council will not affect the grant and policy-making authorities of the Endowments.

American Federation of Teachers AFL-CIO

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ALBERT SHANKER
President

January 29, 1982

The Honorable Orrin Hatch, Chairman
Labor and Human Resources Committee
The United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The American Federation of Teachers, AFL-CIO wishes to register its endorsement of Dr. William J. Bennett to the Chairmanship of the National Endowment for the Humanities.

We believe that Dr. Bennett not only has a record of scholarship and academic achievement but of administrative experience and ability. His performance as director of the National Humanities Center in North Carolina has given him, we feel, the wherewithal necessary to ensure that only the highest standards will be met for NEH's funding of projects.

Based on his solid academic and executive background, the American Federation of Teachers gives its wholehearted support for the confirmation of Dr. Bennett as NEH's new Chairman.

If it is appropriate, we would appreciate your making this letter of support a part of the record on the confirmation hearings.

Sincerely yours,

Albert Shanker

Albert Shanker
President

The CHAIRMAN. With that, we will recess these hearings.

[Whereupon, at 11 a.m., the hearing recessed, to reconvene at the call of the Chair.]